

# FAIRFIELD

VERMONT

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SUBDIVISION

&

ZONING

BYLAWS

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Adopted by the Select Board:

May 14, 2012

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## **ARTICLE 1**

### **Establishment & Administration of Zoning and Subdivision Bylaws**

#### **SECTION 1.1 Enactment**

In accordance with the Vermont Planning and Development Act (24 V.S.A., Chapter 117), hereinafter referred to as "the Act", there are hereby established zoning by-laws and subdivision by-laws for Fairfield, Vermont. These by-laws, upon adoption, and while in effect, shall amend in their entirety Zoning Ordinances adopted in 1996.

#### **SECTION 1.2 Purpose**

It is the purpose of these By-laws to encourage the appropriate development of all lands in this community in a manner which will promote the public health, safety, morals, prosperity, comfort, convenience, efficiency, economy and general welfare; to provide means and methods for the community to effect the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen; and to particularly implement the Town Plan of 2002, which is Incorporated by Reference here; and the following specific aims:

- 1) To provide sufficient space in appropriate locations for forest and agriculture, for residential, recreational, commercial and industrial development, and for public and semi-public facilities in the light of their respective environmental needs and of their mutual interrelationships, in order to meet the needs of all residents of the Town;

- 2) To protect soil, forests, water and other natural resources;
- 3) To enable the mitigation of the burden of property taxes on agricultural, forest and other open land;
- 4) To protect and preserve the historic features of the landscape and the town; to preserve open space and to provide a sound economic basis for its maintenance as open space; to facilitate the growth of Fairfield in a manner to create an optimum rural environment; to encourage a rational and convenient pattern of settlement; and good civic design; and in particular to encourage and enhance the attractiveness of the Fairfield scene and landscape.
- 5) To encourage the healthful and convenient distribution of population, employment opportunities and other activities; and to protect residential, agricultural and other areas from undue concentrations of population and overcrowding of land and buildings; from traffic congestion, inadequate parking and the increased traffic flow; and from the loss of peace, quiet and privacy.
- 6) To encourage appropriate diverse architectural design.
- 7) To secure safety against fire, explosions, floods and other dangers.
- 8) To protect public health by reduction of noise, air pollution, water pollution and other noxious physical influences.
- 9) To protect access to adequate light and air.
- 10) To facilitate the adequate and economical provision for transportation, water, sewage, schools, parks and other public requirements; to encourage the appropriate and efficient expenditure of public funds, economy in the process of development and more convenient and efficient patterns of public facilities; and to regulate growth in relation thereto.
- 11) To encourage the most desirable and appropriate use of land, to minimize the adverse impact of one land use upon another and to provide for the gradual amelioration of undesirable conditions.
- 12) To encourage the conservation of energy and the development of renewable energy resources.

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

### **SECTION 1.3 Amendments**

By-laws may be amended according to the requirements and procedures established in Section 4441 and 4442 of the Act. Mandatory requirements enacted by the State will automatically become part of these By-laws.

### **SECTION 1.4 Severability**

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

### **SECTION 1.5 Interpretation**

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

### **SECTION 1.6**

#### **Review of Applications During Adoption & Amendment of Bylaws**

Beginning upon the date of public notice for the Select board's final public hearing on adoption or amendment of a Bylaw and ending upon a period of 150 days following that notice, the administrative officer shall review any new application under the proposed bylaw or amendment and existing bylaws or ordinances, in accordance with 24 V.S.A. §4449.

### **SECTION 1.7 Boundary Adjustments**

Deferral permits may be issued for lot-line adjustments, which do not create new lots. Criteria are: no creation of a nonconforming lot and no creation of a lot that can be subdivided which would not have permitted before the lot line adjustment.

### **SECTION 1.8 Additional Data & Independent Review**

The Planning Commission or Zoning Board of Adjustment, at the reasonable expense of the applicant, may:

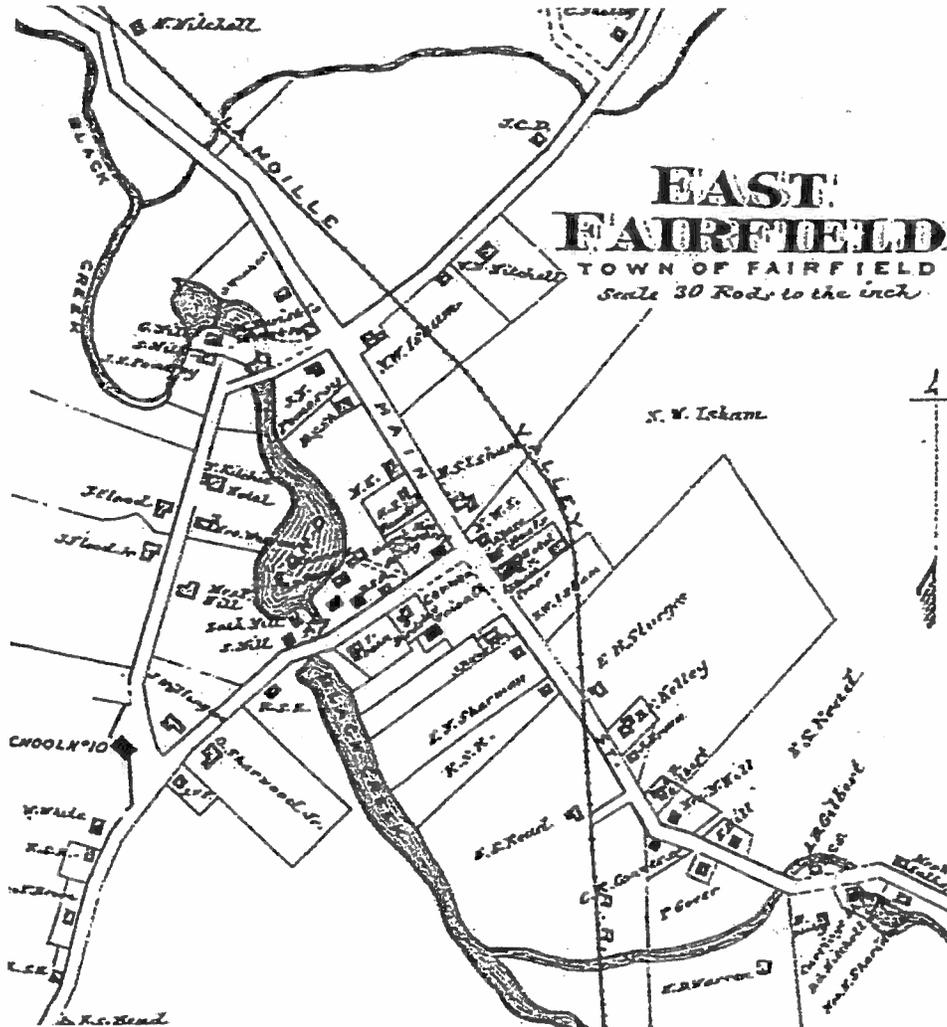
- 1) Require additional engineering data from a firm agreed upon by both parties where there is reasonable doubt as to the adequacy of the plans submitted; and/or
- 2) Hire independent consultants, to be agreed upon by both parties, for review of submitted materials. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification.

**SECTION 1.9 Permit Conditions**

The Planning Commission and/or Zoning Board of Adjustment may impose conditions on permits necessary to achieve the standards of these Bylaws, the goals of the Town Plan, or to protect the health, safety and general welfare of Fairfield.

**SECTION 1.10 Development Review Procedures**

All development reviews shall be conducted according to VSA 24 Sect 4461.



## ARTICLE 2 Subdivision Regulations

### SECTION 2.1 General Provisions

#### **A) APPLICABILITY**

Any land development for residential, commercial, recreational, or industrial purposes that would involve the subdivision of any tract of land into three or more lots for the purpose of development shall be subject to the subdivision regulations herein.

Except where a deferral of permit has been issued in cases of the creation of a lot where development rights have been extinguished.

Twenty-five percent (25%) of each subdivision of a parcel into eight (8) or more lots must be set aside for affordable housing, according to Section 3.2(P) herein.

## **B) ADMINISTRATION AND ENFORCEMENT**

- 1) These subdivision regulations shall be administered by the Planning Commission, as authorized and empowered by the Act.
- 2) The Planning Commission may waive or vary the provision of any improvements or application submission requirements as in its judgment of the nature of the land or the project would be inappropriate and not requisite in the interest of the public health, safety and general welfare. In granting waivers or variances, the Planning Commission may impose such appropriate and reasonable conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or varied. No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of these By-laws, the Fairfield Town Plan or the Act.
- 3) Any decision of the Planning Commission may be appealed to Environmental Court as provided in Sections 4471 and 4472 of the Act.
- 4) Violations of these subdivision regulations shall be subject to the penalties, remedies and enforcement procedures provided in Sections 4451 and 4452 of the Act.

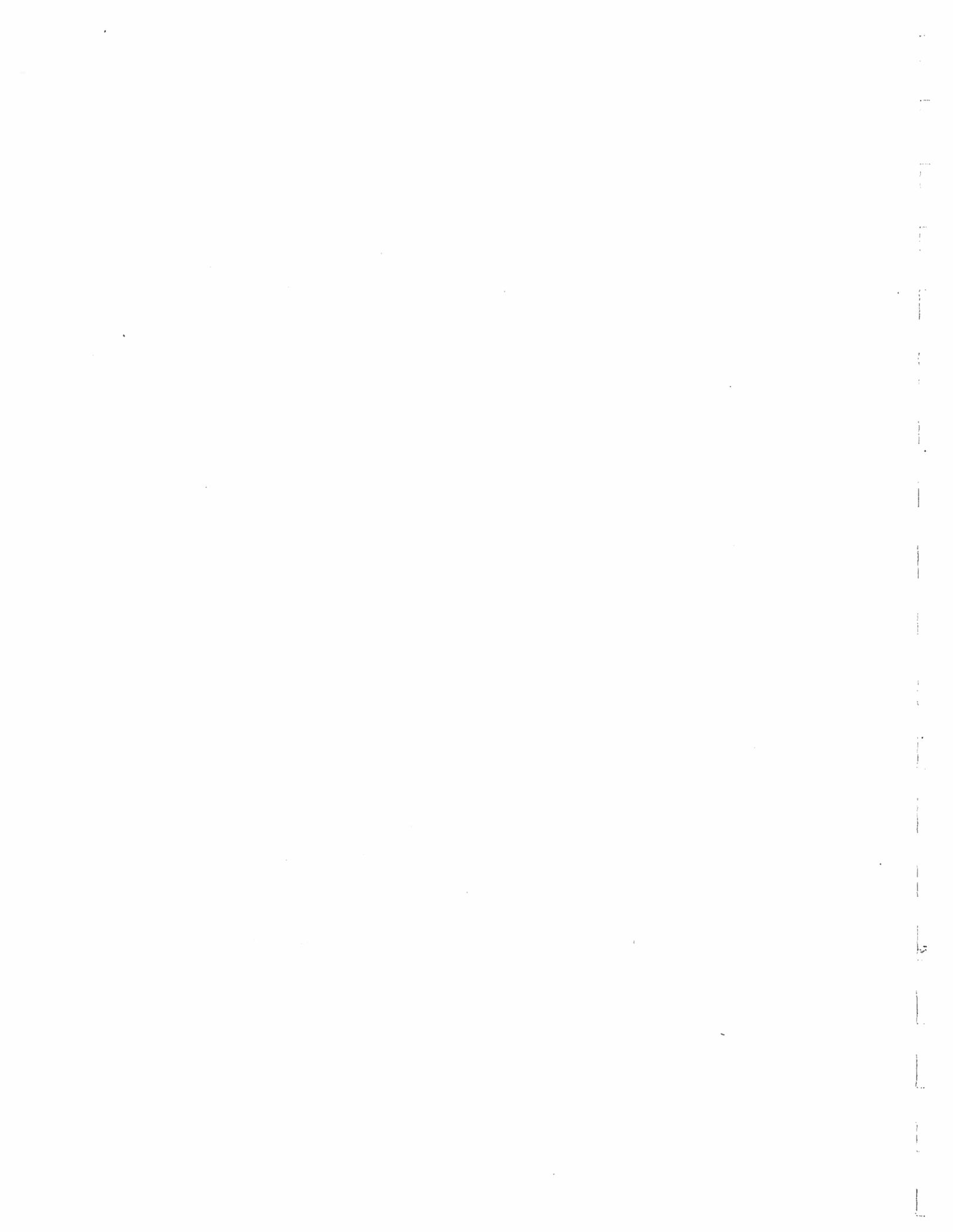
## **C) FEES AND BONDS**

A fee and a performance bond, the amount of which shall be determined from a schedule established by the Board of Selectmen, shall accompany the application for final plat approval. (24 V.S.A. 4464) 24 V.S.A. 4418 et seq. Apply.

## **SECTION 2.2 Review Procedure**

### **A) SKETCH PLAN REVIEW**

- 1) Notice Procedures. All development review applications before an appropriate municipal panel under procedures set forth in this chapter shall require notice as follows:
  - a) A warned public hearing shall be required for conditional use review, variances, administrative officer appeals and final plat review for subdivisions. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:
    - i) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality affected.
    - ii) Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. 312(c)(2) including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.
    - iii) Written notification to the applicant and to owners of all properties adjoining the property subject to development without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained,





and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

- b) Public notice for hearings on all other types of development review shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:
    - i) Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. 312(c)(2)
    - ii) Written notification to the applicant and to the owners of all properties adjoining the subject property without regard to right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal
  - c) The applicant may be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
  - d) The bylaw may also require public notice through other effective means such as a notice board on a municipal website.
  - e) No defect in the form or substance of any requirements in subdivision (a) or (b) of this subsection shall invalidate the action of the appropriate municipal panel where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental court or by the applicable municipal panel itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing and take a new action.
- 2) Each sketch plan application shall include the following information:
- a) Name and address of the owner of record of the tract to be subdivided and all adjacent property owners and any person applying for a subdivision permit shall show legal authority/ contractual relationship to landowner and shall divulge relationship to owner.
  - b) Drawings (with scale and north arrow) and description of:
    - i) general site location, in relation to public roads and the nearest intersections;
    - ii) boundaries and areas of all continuous land of the owner of record, and of the proposed subdivision;
    - iii) key features of the site, including watercourses, swamp areas, significant topography, open and wooded lands and unique natural or cultural features; and the manner in which such site elements are to be conserved;
    - iv) general type, layout and dimensions of lots, streets, utilities, drainage systems, open space and existing and proposed restrictions on land

(easement, covenants, zoning, etc.), screening to be planted or retained; and

v) all lots to be set aside for affordable housing.

- c) Description of requested waivers or variances from these regulations.
- 3) The sub-divider or authorized agent shall submit a plan for entire parcel of land.
- 4) The sub-divider or authorized agent shall show ability of land to handle proposed development, especially as regards to septic capabilities. The sub-divider (i.e.: land owner or his authorized agent) shall attend the meeting of the Planning Commission on the sketch plan to discuss the proposal and the requirements of these By-laws. The Planning Commission shall study the sketch plan and may reasonably continue the sketch plan review to subsequent meetings in order to visit the site, consult with appropriate agencies, organizations and officials, and make recommendations to the sub-divider regarding required improvements or changes needed for conformance with the planning standards and zoning regulations herein. The Planning Commission may reasonably require submission of such additional information as it deems necessary to determine conformance with these By-laws, including but not limited to a property survey, contour map and engineering details of proposed improvements, by properly licensed professionals.
- 5) Within forty five days of conclusion of the sketch plan review and public meeting, the Planning Commission shall issue and send its written decision to the applicant, either accepting the sketch plan as proposed, accepting it with stated conditions, or rejecting it. Failure to act within forty-five days shall be deemed approval.

## **B) FINAL PLAT APPROVAL**

- 1) Within six months of sketch plan approval, the sub-divider shall submit an application for final plat approval to the Planning Commission. A completed application shall include the proposed plat(s) showing or accompanied by the following:
- a) Proposed subdivision title, name and address of the subject land and adjacent owners of record, sub-divider and plat designer (including license numbers and seals), and the boundaries of the subdivision and its general location;
  - b) The applicant shall be required to provide notice to adjacent property owners and demonstrate proof of delivery by certificate of service.
  - c) Sufficient data to readily determine the location, bearing and lengths of all streets, lot and boundary lines on the ground, referenced to established monuments;
  - d) Location and design of all required improvements (see Section 2.2 (B) herein), easements and required open spaces proposed for common or public use, required screening of development, and proposed deeds, agreements or other documents relating to these and;
  - e) Such other information, if any, required by the Planning Commission in sketch plan approval; and description of requested waivers or variances from these regulations.

- 2) Within thirty days of receiving a completed final plat application and fee, the Planning Commission shall hold a formal public hearing thereon. At least fifteen days prior to the hearing, public notice shall be given as follows:
  - a) Publication of the date, place and purpose of the hearing in the newspaper of general circulation in the Town and posting of such notice in at the Town Office and least three public places in the Town designated by the Zoning Administrator; and
  - b) Copies of the notice shall be sent by the applicant to the town, the Town Clerk of an adjacent community in the case of a plat located within 500 feet of such community, and to other persons thought to have a substantial interest in the proceedings.
  - c) The applicant must also post a permit notice, in a form prescribed by the Town of Fairfield 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.
  - d) The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
- 3) At the public hearing, the Planning Commission shall hear the presentation of the applicant and the testimony of all persons wishing to be heard. The Planning Commission shall consider the adequacy of the proposed plan, improvements and related aspects of the proposal, and shall find or require as a condition of approval, conformance with the standards and requirements set forth in Section 2.3 of these regulations.
- 4) Within forty-five days after the public hearing (or any continuation thereof), the Planning Commission shall approve the proposed plat as submitted, approve it with conditions attached, or reject it. A copy of the decision shall be sent to the applicant and to others who appeared and were heard at the meeting, within such period.

**C) CONDITIONS OF FINAL PLAT APPROVAL**

- 1) Final plat approval shall be effective for a period of 180 days from the date of the decision, as provided in Section 4463 of the Act. No plan may be filed or recorded in the Town Clerk's Office except as prepared in accordance with the requirements under 27 V.S.A. Chapter 17, Section 1403, and as approved by endorsement of the Planning Commission thereon, in accordance with its decision and within such 180 day period.
- 2) Final approval by the Planning Commission shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utilities, open space or other required public improvements shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Board of Selectmen.

- 3) All streets, drainage, water, sewer and other required improvements shall be provided and installed at the sole expense of the sub-divider as a condition of plat approval. The Planning Commission may require a performance bond to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Board of Selectmen that it is satisfied either with the bonding or surety company, or with the security furnished by the sub-divider. The Planning Commission shall determine the amount and terms of the bond, but in no case shall the terms run longer than three years. The bond shall be released only when the conditions have been satisfied in the judgment of the Planning Commission. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond, such bond shall be forfeited to the Town and the proceeds thereof used by the Town to install and maintain such improvements as are covered by the conditions of the bond. The Planning Commission may consider off-site mitigation and sale of development rights in evaluating a plat plan.
- 4) All conditions and terms of lots created for the purpose of providing affordable housing, as defined under Article 4 must be outlined and recorded with the final plat.

#### **D) MISCELLANEOUS PROCEDURAL PROVISIONS**

- 1) If the Planning Commission fails to act on a submitted sketch plan or final plat application, or fails to render its final decision, within the prescribed time limits, such failure shall be deemed approval.
- 2) The sub-divider shall be required to reopen his application at the sketch plan level:
  - a) If the sketch plan or final plat has been rejected by the Planning Commission; or
  - b) If the sub-divider fails to submit the final plat application within six months of the sketch plan approval; or
  - c) If any newly presented data differs substantially, in the judgment of the Planning Commission, from the last agreed-upon or approved version. Any modifications by the Planning Commission as a condition of approval must become part of the plat. All resubmitted data must be updated and accurate.
- 3) All official submissions to the Planning Commission must be signed and dated by the sub-divider (i.e.: land owner or his authorized agent).
- 4) All official dispositions of any sketch plans and final plats by the Planning Commission must be signed and dated by the Chairman or other authorized member of the Commission, by resolution and recorded in the minutes.
- 5) The Planning Commission may, at its discretion, hold one or more public informational meetings (to which the sub-divider shall be invited) at any point between the sketch plan submission and the final plat public hearing for the purpose of obtaining public response to a proposed development. Notwithstanding the time limits prescribed in these regulations, the time taken for such meetings, including

notice periods, shall have the effect of extending such time limits without penalty to the applicant or the Planning Commission.

- 6) All required sketch plan, final plan and other official data submission to the Planning Commission should be submitted in triplicate. All required data submissions, and the burden of proof under these regulations, shall be the responsibility of the applicant sub-divider.
- 7) The Planning Commission may hold one or more meetings with the subdivider prior to submission of the sketch plan application in order to provide input early in the design process.

### **SECTION 2.3 Development Standards**

#### **A) GENERAL PLANNING STANDARDS**

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

## **B) REQUIRED IMPROVEMENTS & DESIGN STANDARDS**

- 1) Layout of lots shall be designed to reduce the impact on agricultural land to the greatest degree possible, and shall be in conformance with the Zoning Regulations, and wherever feasible:
  - a) to access onto side streets and minimize direct access to Town highways;
  - b) to utilize common driveways for adjacent lots;
  - c) to produce the safest, most healthful and attractive building sites for the topography, drainage, soils, vegetation and other natural features on the property; and
  - d) to make optimum use of solar orientation and vegetation control for building energy conservation.
- 2) Suitable monuments, at necessary survey points, shall mark all lots; and the location thereof shall be shown on the sketch plan and the final plat.
- 3) Design of streets shall conform to State A-76 standards or such other standard as set forth in the road policy and shall be constructed logically in relation to the topography so as to produce safe intersections, grades and alignments and adequate drainage. Wherever feasible, streets shall be laid out:
  - a) to coordinate with existing and future appropriate development of adjacent tracts;
  - b) to make driving through the development possible (ie: avoid long dead-end streets), but discouraging to through traffic in that portion of the Town.
- 4) Water Supply and Sewage Disposal Systems shall comply with all Town and State Regulations. The Planning Commission may require that the proposed development be serviced by common or public water supply and sewage disposal systems, or that such systems be designed so that they may eventually be connected to municipal facilities.
- 5) Utilities including electric and telephone lines shall be underground, unless deemed unreasonable and prohibitively expensive by the Planning Commission. Wherever feasible, utilities may be laid out to coordinate with existing and future appropriate development of adjacent tracts. All utility easements shall be shown on the plat.
- 6) Drainage facilities shall be provided sufficient to accommodate the twenty-five year return period storm runoff from all streets, lots and upstream drainage areas, whether inside or outside the development. The Planning Commission shall not approve a drainage system, which would overload downstream drainage facilities or cause flooding on other lands or result in increased public expenditure, until proper provision has been made for the improvement of such conditions. Adequate provision shall be made to minimize erosion during and after construction. All drainage system easements shall be shown on the plat.
- 7) Vegetation such as trees and shrubs shall be retained or may be reasonably required by the Planning Commission for screening and aesthetic purposes. The Planning Commission may require that suitable hardwood shade trees be planted along the streets where trees do not exist at intervals of forty feet. All such required trees

shall measure at least ten feet in height and two inches in diameter measured six inches above finished grade, and shall be planted within five feet of the edge of the street right-of-way.

- 8) The Planning Commission may require open space for recreation, pedestrians or other public or common use pursuant to Section 4418(5) of the Act. All such spaces shall be shown on the plat.
- 9) The layout of all new lots created shall be in conformance with the Zoning By-laws, and:
  - a) shall meet the minimum dimensional and frontage requirements of the district in which it is located;
  - b) should be designed with consideration of natural and manmade features such as tree lines, stone walls, ridgelines, roads, shorelines or other features recognizable on the land. Where this requirement conflicts with section c or d below, this section shall govern;
  - c) should have a regular shape. 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; and
  - d) shall not be so reduced in area, yards, lot width, frontage, coverage or other requirements, so as to conflict with these By-laws.



## ARTICLE 3 Zoning Regulations

### SECTION 3.1 Zoning Administration & Enforcement

#### **A) APPLICABILITY**

- 1) The following types of land development shall be subject to zoning regulations herein:
  - a) Division of a parcel of land into two or more parcels.
  - b) New construction, relocation or substantial improvement of any structure.
  - c) Commencement or extension of any mining, excavation or land filling.
  - d) Change or extension of the nature of use of any structure or land.
- 2) Where land development is subject to both the zoning and subdivision regulations it shall be the preferred practice to obtain approval - under the subdivision regulations prior to the zoning.
- 3) In accordance with Section 4413 of the Act, prior to construction of a farm structure, a person shall notify the Zoning Administrator of that intent and shall abide by





setbacks approved by the commissioner of agriculture, food and markets. No municipal permit for a farm structure shall be required.

**B) ADMINISTRATIVE OFFICER**

- 1) Zoning shall be administered and enforced by an Administrative Officer, nominated for 3 years by the Planning Commission and appointed by the Board of Selectman. The Selectboard may remove the Administrative Officer from office after consulting with the Planning Commission, for just cause. Compensation to the Administrative Officer shall be paid out of the general fund in an amount and schedule established by the Board of Selectmen.
- 2) The Administrative Officer shall administer and enforce these zoning regulations literally, and shall not have the power to permit any land development, which is not in conformance with them. The Administrative Officer may make reasonable inspections as he or she deems necessary to determine compliance, and shall maintain a full and accurate record, available to the public, of all applications and fees received, permits issued and denied, and violations reported.
- 3) In the absence or disability of the Administrative Officer, an acting Administrative Officer may be appointed and empowered in the same manner as provided in (a) and (b) above.

**C) PLANNING COMMISSION**

In accordance with the Act [Sections 4322-4323], a Planning Commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Selectboard for 3 year terms. At least a majority of the Commissioners shall be residents of the Town of Fairfield. The Selectboard shall fill vacancies for the unexpired terms and upon the expiration of terms. Any member of the Planning Commission may be removed at any time by unanimous vote of the Selectboard.

- 1) The Planning Commission shall have all of the powers set forth in the Act to administer the provisions of these bylaws, including but not limited to, the power to:
  - a) Prepare amendments to these regulations and other regulations as permitted by the Act.
  - b) Prepare and update the municipal plan every 5 years and prepare amendments to the plan as necessary.
  - c) Respond to projects under "Act 250" review.
  - d) Resolve uncertainties on interpretation of the Zoning Map.
  - e) Review right-of-way or easement for land development without frontage.
  - f) Review of PUD's.
  - g) Review of proposed subdivisions.
- 2) The Planning Commission acting through its chairperson or a duly authorized delegate may conduct pre-hearing conferences upon due notice and request by an applicant. The purpose of any pre-hearing conference shall be to clarify issues in controversy; identify documents, plans, detailed information that should be

submitted as evidence at a hearing; and to circumvent untimely and unnecessary delays that would interfere with an expeditious public hearing process. The results of such conference shall be made in writing, signed by the Chair, and made available to all interested parties to the hearing

- 3) The Planning Commission shall adopt rules necessary and appropriate for the performance of its function in conformance with the Act [Section 4323] and Vermont's Open Meeting Law [1 V.S.A. 310-314]. All meetings and hearings of the Commission shall be conducted by not less than a majority of the members of the Commission, and shall be open to the public. Any action of the Commission shall be taken only by concurrence of the members.
- 4) For each case heard and decided, the Commission shall make written findings of fact and conclusions of law, which shall be maintained in the Town Clerk's Office together with all minutes, and other records of the Commission.

#### D) PERMITS & APPLICATIONS

- 1) It shall be the responsibility of the landowner to obtain a zoning permit prior to the commencement of any land development.
- 2) Applications for zoning permits shall be made to the Administrative Officer, who shall prepare suitable application and permit forms. For administrative purposes, the following types of zoning permits are established:
  - a) **Building Permit:** required prior to new construction, relocation or substantial improvement of any structure.
    - i) In accordance with Section 4413 of the Act, prior to construction of a farm structure, a person shall notify the Zoning Administrator of that intent and shall abide by setbacks approved by the commissioner of agriculture, food and markets. No municipal permit for a farm structure shall be required.
    - ii) Building permits shall be issued and effective for a fixed period, not to exceed one year with the option to request a maximum, single, one-year extension.
    - iii) If a zoning permit has not been issued, or construction has not begun in a twelve month period, it will expire in accordance with Section 3.1 (D)(a); one year extension requests under this provision shall be made in writing to the Administrative Officer prior to the expiration of the permit. In making the determination whether construction has begun during the twelve month period, the definition of construction is as defined in the Act [Section 4303 (3)] and as outlined in the publication "Administrative Due Process of Zoning Boards from the Secretary of State", dated 1990, which states in part: "Where there is no footing, no concrete or building construction, the mere grading of land has been held insufficient to justify a claim of vested rights."
  - b) **Wastewater Disposal Permit:** required for any new structure from which wastewater will be generated and any expansion of a use or structure generating substantially increased wastewater. Where a Wastewater

Disposal Permit is required, no Building Permit shall be issued until the Administrative Officer has approved the site and wastewater disposal system design in accordance with Section 3.4(B) of these regulations.

- c) **Deferral Permits:** as defined by Chapter 1, Subchapter 3 of the Environmental Protection Rules and any updates thereof and required for exemption, as stated in these bylaws, from subdivision regulation or lot line adjustments.
- i) In accordance with Section 4413 of the Act, prior to construction of a farm structure, a person shall notify the Zoning Administrator of that intent and shall abide by setbacks approved by the commissioner of agriculture, food and markets. No municipal permit for a farm structure shall be required.
  - ii) Building permits shall be issued and effective for a fixed period, not to exceed one year with the option to request a maximum, single, one-year extension.
  - iii) If a zoning permit has not been issued, or construction has not begun in a twelve month period, it will expire in accordance with Section 3.1(D)(a); one year extension requests under this provision shall be made in writing to the Administrative Officer prior to the expiration of the permit. In making the determination whether construction has begun during the twelve month period, the definition of construction is as defined in the Act [Section 4303 (3)] and as outlined in the publication "Administrative Due Process of Zoning Boards from the Secretary of State", dated 1990, which states in part: "Where there is no footing, no concrete or building construction, the mere grading of land has been held insufficient to justify a claim of vested rights."
- 3) No building permit will be issued for a building or trailer on lease land, except in the Lake District.
- 4) No Certificate of Occupancy will be issued for a residential structure permitted as an affordable housing unit, until the specific provisions and terms required to establish affordable housing units, as defined in Section 3.4(S), are outlined in the deed and properly submitted to the Town Clerk to be recorded.
- 5) In accordance with 24 V.S.A. 4462, in cases where a proposed project will require more than one type of development review, the zoning board of adjustment and planning commission may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. The zoning administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. Notice for a combined review hearing shall be made in accordance with 24 V.S.A 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project a list each review processes that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:
- Βδδess by right-of-way
  - Σφραφταυ!γπαδΞ βραφα!παδΩβαβοδφτ

- Τυχόν αποφασιστικές αποφάσεις, να λαμβάνονται
- Διοικητικά, σύμφωνα με το άρθρο 171

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 where appropriate.

#### **E) PERMIT ALLOCATIONS**

- 1) In accordance with the Act [Section 4410 and 4411], and based on findings incorporated herein under subsection (2), it is the intent of the Town of Fairfield to control the density of population and intensity of land use through the allocation of zoning permits issued for year-round dwelling units in the Town. Specifically, a permit allocation system is hereby established, in accordance with the Fairfield Town Plan and Fairfield Capital Program as currently in effect to:
  - a) Provide for controlled and orderly growth of the town, at a rate slow enough to maintain Fairfield's dominant agricultural and rural character, while also accommodating the Town's fair share of regional population and housing growth; and
  - b) To ensure that the rate of growth does not exceed the ability of the community and the area to provide adequate facilities and services, as set forth in the most recent Fairfield Capital Program.
  
- 2) In accordance with the 2010 Growth Management Report, prepared pursuant to the Act [Section 4382 (c)] and incorporated herein by reference, it is found that:
  - a) Fairfield remains a predominantly rural, agricultural community defined in terms of farm population, farm numbers and regionally defined criteria mass area; and despite decreasing farm numbers, agriculture remains the mainstay of Fairfield's local economy.
  - b) Fairfield's developable land base, including its agricultural resource base, is sufficient to support extensive residential growth and development in the absence of appropriate controls on the density of population and intensity of land use.
  - c) The MISER population projection is the only projection currently available for all Vermont municipalities. Prepared in 2003, it suggests that Fairfield's population will reach 2,039 people by 2020 – a rate of growth that is similar to what the town has experienced since 1990.
  - d) The Town's growth rate is projected to be slightly less than that of the county as a whole.
  
- 3) Fairfield shall continue to limit its rate of growth to an average annual rate that matches that of Franklin County as a whole. Evidence indicates that the county's average annual growth rate, which was 1.4 percent, during the 1990s, has slowed. The best estimates available suggest that the county's average annual growth rate will be 1.2 percent over the next decade (2010 to 2019) and will continue to decline to a rate of 1.1 percent from 2020 to 2029.

- 4) In order to accommodate a maximum annual rate of housing growth rate 1.2% through the year 2015, the following unadjusted allocation schedule for zoning permits for new dwelling units is established, as of article four the effective date of these provisions. For the purposes of this subsection a year shall be defined as the calendar year:

| <b>PERMIT ALLOCATION SCHEDULE, 2010-2015</b> |                    |   |                              |
|--|--------------------|---|------------------------------|
| <b>Year</b>                                  | <b>Growth Rate</b> | <b>Estimated Total Year-round Units</b> | <b>Permits for New Units</b> |
| 2010   | 1.2%               | 718                                     | 8                            |
| 2011   | 1.2%               | 726                                     | 8                            |
| 2012   | 1.2%               | 734                                     | 8                            |
| 2013   | 1.2%               | 742                                     | 8                            |
| 2014   | 1.2%               | 750                                     | 8                            |
| 2015   | 1.2%               | 758                                     | 8                            |

- 5) Upon receipt of the 2000 U.S. Census of Population and Housing, and/or in association with the update of the Fairfield Town Plan or Capital Program, the Planning Commission shall review the demographics of the Town of Fairfield in relation to the region, land subdivision and fiscal trends; and present, as appropriate, findings and proposed changes to and/or extensions of this allocation schedule to be adopted as an amendment to this bylaw. In the event that the allocation schedule is not extended through a bylaw amendment prior to December 31, 2015, the provisions of Section 3.1(E) shall expire in their entirety.
- 6) All building permits issued for new residential development shall be counted against available allocations, except for the following categories of dwelling units, which are specifically exempted from the provisions of Section 3.2(E):
- a) Accessory apartments as defined under Section 3.4(Q);
  - b) Agricultural housing as defined under Section 3.4(R);
  - c) Elderly housing as defined under Article 4;
  - d) Seasonal dwellings as defined under Article 4;
  - e) Affordable housing as defined under Section 34(S), providing the total number of zoning permits issued for affordable housing units in any year does not exceed the equivalent of 25% of the annual permit allocation set forth under Section 3.1(E);
  - f) Residential structures replacing burned or otherwise destroyed homes, which were occupied at the time of damage.
- 7) The conversion of dwelling units specifically exempted under subsection 3.1(E)(6) to conventional, year-round dwelling units shall require a new building permit, and is therefore subject to the allocation system provisions under Section 3.1(E);
- 8) Zoning permits will be allocated on a first-come first-served basis subject to the following provisions:

- a) All allocations will be made based on a written, completed and dated zoning permit application as submitted to the Administrative Officer under Section 3.1(D)(2), unless otherwise specifically authorized under subsection 23.1(8)(f);
  - b) Permit applications which exceed the annual allocation limit will be placed on a waiting list chronologically by date of receipt of a completed application, and will be given consideration in that order for permit allocations that become available during the current or subsequent calendar year;
  - c) A limit of one permit per person per calendar year will be observed. The definition of person for this purpose is as defined under Act 250 [10 V.S.A., Chapter 151, Section 6001 (14)(A)]. This definition includes an individual's parents, minor children and spouse;
  - d) Extensions approved pursuant to Section 2.1(D)(2)(a) shall extend the permit allocation for the same year;
  - e) If a permit expires, or is surrendered or voided for any reason, this permit shall be allocated to the next person on the waiting list, if a waiting list exists;
  - f) Any unallocated permits remaining at the end of a calendar year may be set aside for allocation by the Planning Commission under the provisions of subsection (f) or be added to the following calendar year's annual allocation. After 2 years, any permit still unused, will be retired. The Administrative Officer must maintain a record of unallocated permits.
- 9) Notwithstanding the provisions of subsection (2) and (5), the Planning Commission may authorize, as a condition of approval in accordance with an approved phasing schedule for a Planned Unit or Planned Residential Development under Section 3.4(O) and the Fairfield Subdivision Regulations, an allocation to the applicant of up to two (2) zoning permits from those remaining for the current calendar year, and/or up to two (2) zoning permits from the unallocated permits set aside under subsection (8).
- 10) A written record of permit allocations made by the Planning Commission shall be submitted to and maintained by the Administrative Officer.

**F) BOARD OF ADJUSTMENT**

- 1) The Board of Adjustment shall consist of not less than 3 nor more than 9 members, whose appointment and removal by the Board of Selectmen shall be in accordance with Section 4460 of the Act. The Board of Adjustment shall have the following powers and duties:
  - a) To hear and decide appeals including, without limitation, any appeal alleging an error committed by the Administrative Officer.
  - b) To hear and decide an appeal for a variance.
  - c) To hear and decide an appeal for conditional use approval.
  - d) To impose (for variances and conditional uses), reasonable conditions and safeguards as it deems appropriate and necessary, including those within this by-law and the following:

- i) Limiting the coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property.
  - ii) Controlling the location and number of vehicular access points to developments, to minimize traffic hazards;
  - iii) Requiring measures to minimize the undue adverse effects of land development on soil erosion, water quality and scenic beauty as may be recommended by the County Forester, Soil Conservation Service, District Highway Engineer and other experts;
  - iv) Specifying the specific time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services; and
  - v) Any additional reasonable conditions and safeguards which the Board of Adjustment deems necessary to implement the purposes of the Act, the Town Plan and these zoning regulations.
- e) To establish and apply rules of procedure and all other matters as provided in Subchapter 8 of the Act.
  - f) Review of land development or use within an historic district or with respect to historic landmarks.
  - g) Review of land development or use within a design control district.
  - h) Review of request for waivers.
  - i) Review of wireless telecommunications facilities.
  - j) Repair, relocation, replacement or enlargement of nonconforming structures within a regulated flood hazard area.
  - k) Any other reviews required by the bylaws.
- 2) On all matters heard and decided by the Board of Adjustment, it shall make findings of fact and conclusions of law as part of the record in each case.

#### **F) APPEALS**

- 1) Any interested person may appeal any decision or action taken by the Administrative Officer by filing a written notice of appeal with the Board of Adjustment within 15 days of such decision or act. Within 60 days of receiving a notice of appeal, the board shall hold a public hearing.
- 2) The Board of Adjustment is hereby authorized to conduct a public pre-hearing conference with the appellant under such rules, as the Board shall establish in its bylaws and rules of procedure. The purpose of such pre-hearing conferences shall be to clarify the issues in controversy, to identify documents and information to be submitted as evidence at the hearing, and to circumvent unnecessary delays that would interfere with an expeditious public hearing process.
- 3) Public notice for any hearing held by the Board of Adjustment shall be given by publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town, (officially designated by the Board of Selectmen), posting of such notice in one or more public places within the municipality, and

mailing of such notice to interested persons, as outlined in 24 V.S.A. 4465), not less than 15 days prior to the date of the public hearing.

- 4) On an appeal for conditional use approval, the Board of Adjustment may grant said approval according to the Act, Section 4414) if the Board determines that the proposed use will conform to all specific standards and provisions contained in this bylaw and to the following general standards: The proposed condition use shall not adversely affect:
  - a) the capacity of existing or planned community facilities;
  - b) traffic on roads and highways in the vicinity;
  - c) the utilization of renewable energy resources;
  - d) the character of the area affected; and
  - e) other Town by-laws then in effect.
  
- 5) The zoning board has the right to undertake a site visit and make conditions on permits.
  
- 6) Specific conditional use standards for meadowland shall be applied where conversion of meadowland or cropland will occur. A permit may be granted only if the Board is able to make the following findings:
  - a) The lot for which development is proposed contains no land practically suitable for development other than meadow or cropland.
  - b) The development is situated so as to minimize the loss of meadow/cropland. The Board may require that the developer cluster the houses and/or submit for P.R.D. or P.U.D.
  - c) The maximum amount of meadow/cropland is retained for continued agriculture use.
  - d) Scenic qualities of the area are maintained or enhanced. (This may involve sale or transfer of development rights, P.R.D's or clustering)
  - e) The proposed development will not interfere with the continuance of nearby agricultural uses. (Note: residential and agricultural usage may be in conflict. In Fairfield agricultural use takes priority and residential users should be aware of this.)
  
- 7) On an appeal for a variance from the zoning regulations, the Board may grant said variance if all of the following conditions are found to exist and are specified in its decision according to Section 4469 of the Act (Note: The 1980 Vermont Legislature enacted special variance review criteria for renewable energy resource structures. See 24 V.S.A. 4469):
  - a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this bylaw in the neighborhood or district in which the property is located;
  - b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this bylaw and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

- c) That such unnecessary hardship has not been created by the appellant;
  - d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
  - e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of this By-law.
- 8) According to the Act, Sections 4414 and 4469 upon adjournment of a hearing, the Board shall render its decision in writing on an appeal for conditional use approval within forty-five (45) days. Failure to render a decision within the required period shall be deemed approval. The Board may reject an appeal without hearing and render a decision and findings of fact within ten (10) days of the filing of the notice of appeal, if the board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant. Copies of any Board of Adjustment decision shall be sent, within the above-required periods to:
- a) The appellant (by certified mail);
  - b) Every person or party who appeared and was heard at the hearing;
  - c) The Administrative Officer; and
  - d) The Town Clerk for filing as part of the public records of the Town.
- 9) An interested person may appeal any decision of the Board of Adjustment, within thirty (30) days of such decision, to Environmental Court.
- 10) Within 30 days following the date of decision rendered by the Board, notice of appeal shall be file by certified mail with fees to the environmental court and mailing a copy to the zoning administrator who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall by certified mail, provide a notice of appeal to every interested person and, in any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

#### **H) VIOLATIONS**

Violations of this bylaw shall be regulated as prescribed in Sections 4451 and 4452 of the Act. Whoever violates any provision of this bylaw may be fined not more than one hundred dollars (\$100) for each offense. Each day (24 hours) that a violation is continued constitutes a separate offense. No action may be brought under Section 4452 of the Act unless the alleged offender has had seven (7) days' notice by certified mail that a violation exists.

#### **SECTION 3.2 Establishment of Zoning Districts & Official Zoning Map**

Fairfield, Vermont is divided into 5 major zoning districts as described in Section 3.2 below and as shown on the Official Zoning Map. The Official Zoning Map, located in the Town Clerk's Office, shall be affixed with the signature of the Planning Commission Chair and shall be the final authority as to the zoning status of any lands or waters in the Town. The Official Zoning Map is declared to be part of these By-laws and may only be altered by adoption of an

amendment in accordance with Sections 4441 and 4442 within 30 days following the date of decision of the Act.

**A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Any interpretation of zoning district boundaries by the Administrative Officer may be appealed to the Board of Adjustment for a declaratory ruling. Where a district boundary divides a lot, which existed at the time of passage of these by-laws, the Board of Adjustment may permit, as a conditional use, the extension of the regulations for either portion of the lot (not to exceed 50 feet beyond the district line) into the remaining portion of the lot.

**B) DISTRICTS, ALLOWABLE USES & SPECIFIC REQUIREMENTS**

***Village Residential Districts***

The purpose of this district is to support the role of the villages of Fairfield and East Fairfield in social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the Town. Such development should occur with densities and uses which will maintain the traditional, social and physical character of the villages including their historic and scenic resources, and which will not exceed the capability of the lands, waters, services, and the facilities to absorb such densities. (A detailed map of this district is on file in the Town Clerk's Office).

Reflecting the town plan description. Prior Planning Commission approval required. Written application and plot plan required. The residential Districts are Design control districts.

- 1) *East Fairfield Village.* From the Bakersfield Town Line to west of Saxby's Bridge. Three-fourths of a mile south of East Fairfield to the fork of the road. North to the dwelling owned by Francis Andrews.
- 2) *Fairfield Village.* From the Northerly edge of David and Gail Williams', Elizabeth Soule's and David and Jean Burnor's farms. South, along the Easterly edge of David and Jean Burnor's farm. Westerly along the Southern edge of Albert and Jackie Tetrault's and John Soule's and Eulie Saurwein's farms. North, along the Western edge of John Soule and Eulie Saurwein's farm and Theresa and Michael Menard's farm. Also described by the boundaries of the fire district, as of January 1st, 1992.

| <b>VILLAGE RESIDENTIAL DISTRICT ALLOWABLE USES</b>            |             |
|---|-------------|
| Single Family Dwelling  | Conditional |
| Two Family Dwelling   | Conditional |
| Agriculture   | Conditional |
| Essential Public Services                                     | Conditional |
| Retail or Service Based Business Less than 10,000 square feet | Conditional |
| Mobile Home Park  | Conditional |
| Commercial Indoor Recreation Facility                         | Conditional |
| Multi-Family Dwelling   | Conditional |

|  |             |
|--|-------------|
| Elderly Housing                        | Conditional |
| Auto Service Station                   | Conditional |
| Industrial Uses                        | Conditional |
| Commercial Outdoor Recreation Facility | Conditional |

| VILLAGE RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS |                          |          |
|--|--------------------------|----------|
| Minimum Lot Size                                   | Off Site Sewage Disposal | ¼ acre   |
|  | On Site Sewage Disposal  | ½ acre   |
| Frontage   |                          | 100 feet |
| Front/Road Setback                                 |                          | 45 feet  |
| Side/Rear Setback                                  |                          | 10 feet  |

***Design Control District***

(as in 24 V.S.A. 4414 (6)) in the historical village centers. All new structures in the Village residential areas shall be:

- 1) Square or rectangular with no length of the structure being more than (3) times its width, or vice versa.
- 2) Flat roofed buildings are excluded from these design control districts. All roofs must be of a gable type, with the angle of the ridgeline no less than 2-12 pitch as viewed from the side.
- 3) No structure may be erected, reconstructed, substantially altered, restored, removed, demolished or changed in use or type of occupancy without prior planning commission approval.
- 4) Performance standards may be set by the Planning Commission.
- 5) The Planning Commission may require bonds.

***Conservation & Recreation District***

The purpose of this district is to protect those areas, which have present or potential capability for recreation, in accordance with Section 4302 and 4414et seq. of the Act. Development in this district must be carefully controlled to protect water quality, scenic beauty, conservation of total environment, and related resources.

- 1) *Fairfield Swamp Waterfowl Refuge.* The Fairfield Swamp District includes the areas surrounding Fairfield Waterfowl Refuge between Swamp & Pion Roads and the St. Albans and Swanton town lines on the west; Barry Road on the north; Hill & West Roads on the East; and Fairfax town line on the south.

Fairfield Swamp: Note: No zoning permit for the development of land in the swamp within 1,000 feet above high water mark or within 1,000 feet of any state owned or leased land. A permit may be granted after a period of 30 days following the submission of a written report to the state agency designated, describing the proposed use, the location requested and an evaluation of the effect of such use on the town plan and regional plan (as provided in 24 V.S.A. 4413 Development shall not unduly change the character or environmental quality of the area.

| FAIRFIELD SWAMP ALLOWABLE USES |             |
|--------------------------------|-------------|
| Agriculture                    | Permitted   |
| Forestry                       | Permitted   |
| Single Family Dwelling         | Conditional |

| FAIRFIELD SWAMP DIMENSIONAL STANDARDS |          |
|---------------------------------------|----------|
| Minimum Lot Size                      | 1 acre   |
| Minimum Width or Depth                | 200 feet |
| Frontage                              | 200 feet |
| High Water Mark Setback               | 150 feet |
| Side/Rear Setback                     | 25 feet  |

- 2) *Lake District- Fairfield Pond.* The Lake Area District includes all lands from the Swanton town line to the west, Sheldon town line to the north, to the east Dead Creek and an unnamed creek (near Cronin Road) until a point 3,000 feet from Fairfield Pond. From the 3,000-foot line, the boundary continues north until it intersects the Sheldon town line (see map at Town Clerk’s Office). This is designated as a zone of total protection. All uses of land must meet strict regulations, including compliance with accepted agricultural and silvicultural practices. Any new building and any alterations in any structure etc. shall require planning permission. Shoreland zoning shall be interpreted strictly as in 24 V.S.A. 4414.

Existing Farm - Prior to construction of a farm structure, a person shall notify the Zoning Administrator of that intent. And provide a letter of approval from the commissioner of agriculture, food and markets, as required by Section 4413 of the Act, if a variance to the town’s zoning bylaws is requested.

| LAKE DISTRICT ALLOWABLE USES AND STANDARDS  |             |
|---|-------------|
| Single Family Permanent Year Round Dwelling   | Conditional |
| Vacation Home (Seasonal Dwelling)<br>- <i>These dwellings are treated as permanent dwellings in order to protect the water quality (i.e. must meet perc test)</i><br>- <i>Must not change the character or environmental quality of the area.</i> | Conditional |
| Campgrounds<br>- <i>Must conform to State Regulations, including sanitary and health regulations. Require yearly Planning Commission Approval.</i>  | Conditional |
| Camps   | Conditional |
| Communications Facilities   | Conditional |

| LAKE DISTRICT DIMENSIONAL STANDARDS |                  |                        |          |                         |                    |
|-------------------------------------|------------------|------------------------|----------|-------------------------|--------------------|
| Use                                 | Minimum Lot Size | Minimum Width or Depth | Frontage | High Water Mark Setback | Side/ Rear Setback |
| Year Round                          | 1 acre           | 200 feet               | 200 feet | 150 feet                | 20 feet            |
| Seasonal                            | 15,000 sq. ft.   | x                      | x        | 75 feet                 | x                  |

- 3) *Uplands District.* This district includes all lands bounded on the south by the Fletcher Town Line, on the east by the Bakersfield Town Line, on the north by State Route 36 and on the west by State Aid Road #1, the so-called South Road. Excluded from this district are lands within the Village District.

| UPLANDS ALLOWABLE USES AND STANDARDS  |             |
|---|-------------|
| Agriculture   | Permitted   |
| Forestry  | Permitted   |
| Essential Public Services   | Permitted   |
| Single Family Permanent Year Round Dwelling<br>- <i>Intent: to encourage use of small lots for residential buildings while maintaining a density of no more than one unit per ten acres</i>                       | Conditional |
| Vacation Home (Seasonal Dwelling)<br>- <i>Seasonal dwellings are treated as permanent dwellings for building permit applications.</i>   | Conditional |
| Commercial<br>- <i>Prior Planning Commission and Zoning Board approval required.</i>  | Conditional |
| Campgrounds<br>- <i>Must conform to State Regulations including sanitary and health regulations. Requires Planning Commission Approval and yearly reapproval.</i>   | Conditional |
| Camps<br>- <i>i.e., hunting camps, but not a seasonal dwelling or vacation home, which latter must meet permanent building standards</i><br>- <i>Camps must be served by a minimum of a closed septic system.</i> | Conditional |
| Communications Facilities   | Conditional |

| UPLANDS DISTRICT DIMENSIONAL STANDARDS |   |          |                     |
|--|---|----------|---------------------|
| Use                                    | Minimum Lot Size  | Frontage | Front/ Road Setback |
| Year Round and Seasonal Dwellings      | 1 acre  | 200 feet | x                   |
| Camps                                  | 35 acres<br>[10 acre lots in existence prior to January 1, 1996 are exempt] | 500 feet | 100 feet            |

- 4) *Chester A. Arthur Historical District and Scenic Road.* This district comprises land around the Chester A. Arthur State Historical Place, bounded east by the town lines of Enosburg and Bakersfield, west to include the former Clayton Castle house now owned by Hubert Paradee, north along Town Highway #18 to include the Kenneth Fortune house, and south to the first fork on Town Highway #34, and the entire length of the Chester A. Arthur Road from Fairfield Center to the Bakersfield Boundary as a Scenic Road. The Scenic Road extends 1,000 feet on both sides of the road, measured from the centerline of the road.

All building requires Planning Commission approval. Within the Historic District, building must not change the historical character or environmental quality of the area. All building and structures must be screened from the road, and set back 70 feet.

This is a Design Control District and all the controls Design Control District above apply. Section 4414 of the Act also applies.

| CHESTER A. ARTHUR HISTORICAL DISTRICT & SCENIC ROAD<br>ALLOWABLE USES & STANDARDS |             |
|---|-------------|
| Agriculture   | Permitted   |
| Forestry  | Permitted   |
| Single Family Detached Dwelling   | Conditional |
| Seasonal Dwelling   | Conditional |
| Communications Facilities   | Conditional |

**Conservation & Recreation District**

The purpose of this district is to prevent increase in flooding caused by development in flood hazard areas, to minimize future public and private losses due to floods, and to promote the public health, safety and general welfare. Designation of this district is also required for continued town eligibility in the National Flood Insurance Program. Included are all areas subject to a 1% or greater chance of flooding in any given year (i.e.: the 100-year flood plains) as shown on the latest Federal Insurance Administration maps, which are incorporated and adopted herein by reference. This section is governed by 24 V.S.A. 4424, and the most recent version of this statute is incorporated by reference here.

Note: The Flood Hazards District overlaps other districts established in this bylaw. Where the provisions of the underlying district differ with the Flood Hazard District provisions, the more restrictive shall govern. The mandatory provisions of State and Federal law for continued eligibility in the National Flood Insurance Programs are hereby adopted by reference and shall be applied in the granting of any permit in this district. Title 24 V.S.A. Section 4424 1.0 Lands to which these regulations apply These regulations shall apply in all areas of special flood hazard identified as Zone A, on the "Flood Insurance Rate Map" for the Town of Fairfield, Vermont dated September 27, 1985 and any revisions thereto. Said map shall be the official Flood Hazard Area Map and is hereby adopted by reference and declared to be a part of these regulations.

| FLOOD HAZARD ALLOWABLE USES & STANDARDS   |             |
|---|-------------|
| Agriculture   | Permitted   |
| Recreation Open Space Uses (excluding the erection of new structures)                                   | Permitted   |
| Essential Public Services   | Conditional |
| Public and commercial outdoor recreating (boating facilities, pump houses and access and parking areas) | Conditional |
| Agricultural buildings  | Conditional |
| Substantial improvements to any existing structure  | Conditional |
| Excavation and fill   | Conditional |
| Communications Facilities   | Conditional |

- 1) **Conditional use permit required.** All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Fairfield

zoning ordinance are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Board of Adjustment.

- 2) **Conditional use review procedures.** Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to rendering a decision thereon:
  - a) Obtain from the applicant:
    - i) the elevation certificate (in relation to mean sea level) of the lowest floor, including basement, of new buildings of buildings to be substantially improved;
    - ii) where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood proofed;
    - iii) plans drawn to scale showing the existing and proposed land contours, building, structures, streams, roads and other pertinent physical features;
    - iv) base flood elevation data for subdivisions and other proposed development, which contain at least 50 lots or 5 acres (whichever is the smaller);
    - v) such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development.
  - b) Mail or deliver a copy of the application to the Agency of Natural Resources and either wait until 30 days have elapsed following the mailing to the Agency of Natural Resources or the agency delivers comments on the application.
- 3) In reviewing each application, the Board of Adjustment shall consider:
  - a) The evaluation of the Vermont Department of Water Resources.
  - b) The availability of alternative locations not subject to flooding for the proposed use.
  - c) The susceptibility of the proposed improvement to flood damages.
  - d) The safety of access to the property in times of flood or ordinary and emergency vehicles.
  - e) The potential for damage to the property caused by erosion.
  - f) The danger that materials may be swept onto other lands and cause damage to others.
  - g) Such other factors as are relevant to the purposes of this ordinance.
- 4) The Board of Adjustment may grant a Conditional Use Permit for Development provided:
  - a) All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State Law.
  - b) The development standards of Section 1.9 are met or exceeded.
- 5) Development standards within areas of special flood hazard.
  - a) New residential structures and existing structures which are to be substantially improved for residential purposes shall have the lowest floor (including basement) elevated to or above the base flood elevation.

- b) New nonresidential structures and existing structures which are to be substantially improved for nonresidential purposes shall have the lowest floor (including basement) elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
- i) be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - ii) have structural components capable of withstanding hydro-static and hydrodynamic loads, effects of buoyancy and other factors associated with the base flood; and
  - iii) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.
- c) Mobile homes
- i) Mobile homes shall be elevated on compacted fill or pilings so that the lower flood will be at or above the base flood elevation.
  - ii) Mobile home lots shall be elevated on compacted fill. The top of the fill shall be at or above the base flood elevation.
  - iii) Mobile homes shall be anchored as follows:
    - over-the-top and frame ties shall be provided at each of the four corners
    - two additional intermediate over-the-top ties and five additional intermediate frame ties per side shall be provided
    - all components of the anchoring system shall be capable of carrying a force of 4,800 pounds
    - any additions to the mobile home shall be similarly anchored
  - iv) When piling foundations are used the pilings shall be placed in stable soil no more than ten feet apart and piers more than six feet above ground level shall be reinforced.
- d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- e) New and replacement sanitary sewage systems shall be designed to minimize infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- f) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- g) Subdivision and mobile home park proposals:
- shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - shall have adequate drainage provided to reduce exposure to flood damage; and
  - shall include and evacuation plan indicating alternate vehicular access and escape routes. Said plan shall be filed with the municipal civil defense office.
- h) In zone A, new construction, substantial improvement, or fill shall not adversely affect the flood carrying capacity of the area of special flood hazard. For the purposes of this requirement, "adversely affect" means

damage to adjacent properties because of rises in flood stages attributed to physical changes of the stream channel and the adjacent overbank areas.

- i) All new and substantially improved structures shall
  - be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
  - be constructed with materials and utility equipment resistant to flood damage, and
  - be constructed by methods and practices that minimize flood damage.
- 6) Records. The Administrative Officer shall maintain records of all permits issued for developments within areas of special flood hazard. The records shall include:
  - a) whether or not the buildings have a basement
  - b) the elevation (in relation to mean sea level) of the first flood or the basement floor of new or substantially improved building; and
  - c) the elevation to which buildings have been flood proofed, if applicable.
- 7) Variances. Variances shall be granted by the Board of adjustment only in accordance with the provisions of 24 V.S.A. section 4469; and upon a determination that during the base flood discharge the variance will not result in increased flood levels, threats to the public safety, extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - a) The secretary of the Board of Adjustment shall notify the applicant that the issuance of a variance to construct a structure below the base flood level;
    - i) will result in increased premium rates for flood insurance commensurate with the resulting increase in risk;
    - ii) increase in risks to life and property.
  - b) The secretary of the Board of Adjustment shall maintain a record of all variance actions, including justification for their issuance.
- 8) Warning of disclaimer of liability. These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such Districts will be free from flooding or flood damage. These regulations shall not create liability on the part of the Town of Fairfield or any Town official or employee thereof for any flood damages that result from the reliance on this ordinance or any administrative decision lawfully made thereunder. Definitions used in this section are as set out in 24 V.S.A. 4424.

### ***Agricultural District***

All remaining lands not classified into any other district. The purpose of this district is to provide for and protect residential, agricultural, forestry and compatible commercial and recreational uses in accordance with the Town Plan. Development densities must be in keeping with the physical capabilities of the land and the availability of planned community facilities and services. Development methods to preserve the rural character and protect the agricultural resources of these areas will be enforced. Where a farmer wants to sell his/her property for development, every effort should be made to employ such planning mechanism as Transferable Development Rights in order to keep land in active farming in this district. (See 24 V.S.A. 4423).

| AGRICULTURE DISTRICT ALLOWABLE USES AND STANDARDS   |             |
|---|-------------|
| Agriculture (Sugaring, Truck Gardening, Forestry and Forestry Stations, Farms, Dairies, Orchards, Greenhouses, and similar enterprises including stands for the sale of products raised on the farm)<br>- <i>Note: that modern farm/forestry business can also place added burdens on water supply, pollution, road systems etc. Substantial changes in these activities, while permitted, must nonetheless conform to accepted agricultural practices.</i> | Permitted   |
| Single-family detached dwelling for year round occupancy<br>- <i>Housing densities must be kept low. Residential development should be sited on land least suited for production of crops and maintenance of agriculture, with due consideration to drainage, soil conditions, flooding, topography etc.</i>  | Conditional |
| Seasonal dwelling (must have same septic system as a permanent dwelling)  | Conditional |
| Camp<br>- <i>Prior Planning Commission Approval.</i>  | Conditional |
| Commercial Uses<br>- <i>Should be in accordance with the agricultural, rural nature of the district within the Town of Fairfield, recognizing the desire to concentrate commercial activities close to the villages unless they are potential "nuisance" activities such as slaughterhouses.</i><br><br><i>Must not unduly change the character or environmental quality of the area. Planning Commission approval.</i>                                     | Conditional |

| AGRICULTURE DISTRICT DIMENSIONAL STANDARDS |   |          |                                    |
|--|---|----------|------------------------------------|
| Use  | Minimum Lot Size  | Frontage | Front/ Road Setback                |
| Year Round and Seasonal Dwellings          | 1 acre  | 200 feet | 70 feet (unless reduced under PUD) |
| Camps                                      | 35 acres<br>[10 acre lots in existence prior to January 1, 1996 are exempt] | 500 feet | 100 feet                           |

### SECTION 3.3 Pre-Existing Development

No provision of these by-laws shall prevent the normal continuation and maintenance of lots, structures and uses of land, which lawfully existed on the effective date of these by-laws. Preexisting development shall be subject to the same requirements as new land development, except as provided in this article.

#### **A) NONCONFORMING USES**

- 1) Subject to conditional use approval by the [AMP], the following may be permitted:
  - a) Any nonconforming use of a structure or land may be altered or expanded, not exceeding 50% of its size as it existed upon the effective date of this bylaw. However a nonconforming use shall not be re-established after being abandoned or discontinued for a period of 18 months, or after being changed

to a conforming use, regardless of evidence of intent to re-establish such use.

- b) Any nonconforming structures may be altered or expanded, providing such action does not increase the degree of nonconformance. In the event a nonconforming structure is at least 75% damaged or destroyed by fire, collapse or "Act of God," it may be rebuilt only in compliance with this bylaw. The [AMP] may grant a waiver from this in consideration of remaining features such as foundation, water and sewage systems, underground utilities, etc.
- c) Any alteration or expansion of a nonconforming use or nonconforming structure for the sole purpose of compliance with environmental, safety, health or energy codes, laws or regulations.

#### **B) NONCONFORMING STRUCTURES**

- 1) Any preexisting structure or part thereof which is not in compliance with regulations concerning setbacks, height, lot size or other dimensions, or which does not meet the parking area requirements, shall be deemed a non-conforming structure.
- 2) Upon approval of a conditional use permit by the Board of Adjustment, any non-conforming structure may be altered or expanded, providing such action will not increase the aspect or degree of non-compliance.

#### **C) ABANDONMENT**

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

#### **D) PRE-EXISTING SMALL LOTS**

- 1) In accordance with V.S.A. 4412, any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located,

provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet. If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

**SECTION 3.4 Miscellaneous Specific Provisions**

**A) ACCESS TO LAND DEVELOPMENT AND/OR NEW BUILDINGS**

- 1) Land development and/or new buildings may be permitted shall be built with strict regard to the safe and efficient flow of traffic in the area, and provide adequate access for emergency vehicles. Road frontage requirements for lots shall be used as the basis for establishing density of development for the overall parcel.
  - a) Frontage on a maintained public road (Class III or better), or
  - b) With the approval of the Planning Commission, access by means of a permanent easement or right-of-way at least 20 ft. wide to such a public road. The Planning Commission may require a right-of-way or easement greater than twenty feet in width if, in its judgment, it is necessary to protect the health, safety and general welfare of the Town of Fairfield. Access by public waterways to a residential use is expressly excluded.
  - c) All Rights-of-Ways shall be set back 20 feet from side boundary lines or be shared, in which case may be constructed to the edge of the parcel and shared use rights must be specifically outlined in the Warrantee Deed for each interested parcel.
  - d) All commercial and industrial uses shall have unobstructed visibility of such road 300 feet in either direction from any driveway access.
  - e) All driveways entering onto public roads must meet the Selectmen’s specifications for grade, culverts, and ditching. And all culverts require prior approval from the Selectmen.
  - f) Roads will be constructed according to anticipated traffic use. The following shall be considered a guide to road construction:

| Anticipated Average Daily Traffic | Width With Shoulders    | Sub-Base Depth |
|-----------------------------------|-------------------------|----------------|
| 0-25                              | 3 feet, 14 feet, 3 feet | 12inches       |
| 26-50                             | 3 feet, 20 feet, 3 feet | 12 inches      |
| 51-100                            | 3 feet, 24 feet, 3 feet | 12 inches      |

- i) 18 inches of road base may be required if appropriate for volume of traffic. A topcoat of gravel will be required to a thickness of six to eight inches.
- ii) All newly constructed roads within the Fairfield Village District shall be constructed as outlined above and shall have a paved surface. Sidewalks shall be required on all newly constructed roads within the Fairfield Village District.
- iii) Road grades should not exceed 10 percent. Continuous steep grades (500’ or more) should be avoided. Road alignment should allow easy access and traffic flow for emergency and other vehicles.

- g) Culverts should be sized for 25 percent greater capacity than needed. Twelve inch culverts should be considered the minimum necessary for driveways in dry areas. Installation and maintenance of driveway culverts shall be the responsibility of the landowner. Culverts shall be installed so that the water, snow and ice do not protrude into the highway.
- h) Roads should be properly elevated and drained so that water does not collect and pool on the road surface. Ditches, on both sides of the road with sufficient culverts, shall be provided to create adequate drainage.
- i) Development roads should be designed to minimize road cuts onto Town Highways, allow free flow of traffic through the development (avoid dead ends and cul-de-sacs), and to be able to coordinate with future potential development roads on adjacent properties (use of easements if necessary). If cul-de-sacs or dead end turn-arounds are accepted, the minimum radius shall be sixty feet.
- j) The travel portion of the road "apron" (where the road intersects another road) should be a minimum of thirty feet wide to allow for emergency access and snow removal. Where a road apron intersects a paved Highway the apron should be paved to the edge of the highway right of way.
- k) Any work undertaken in the Highway Right of Way has to be approved by the Selectboard.
- l) Suitable vegetation must be established wherever construction has left soils subject to erosion.
- m) Where questions arise regarding suitability of road design, the Selectboard and (or) Planning Commission may refer to "Standards for Highway and Bridge Construction", Vermont Agency of Transportation, 1976 (or current issue) for guidance.
- n) Where a property is divided by a road or right-of-way, it shall be considered contiguous land for the purposes of zoning and subdivision.

## **B) WASTEWATER DISPOSAL**

- 1) Wastewater disposal systems shall be constructed in accordance with the design standards in the current version of the Environmental Protection Regulations, which are hereby adopted by reference and declared to be part of this by-law, and the Fairfield sewer ordinance.
- 2) Applications for wastewater disposal permits shall contain the following information, supplied by the applicant:
  - a) Description and design of the proposed system;
  - b) Results of soil testing (percolation and depth to bedrock or seasonal high groundwater), conducted by a qualified individual, licensed by the State and approved by the Town Board of Health to perform such tests, and,
  - c) Any additional information, which may be required by the Administrative Officer to determine compliance with this Section.
- 3) The town may request a bond or other suitable surety be posted pending satisfactory compliance with all regulations.

- 4) Where State permits are required they shall be obtained prior to issuance of a local permit.
- 5) The Administrative Officer shall not issue a zoning permit where a wastewater disposal permit is required until he or she has approved the system design in accordance with subsection (1) (above). In addition the system, when installed but prior to being covered with earth, shall be inspected to ensure construction in accordance with the approved design. The zoning administrator and health officer and a certified engineer or site technician shall inspect the system within twenty-four (24) hours of notification by the applicant during the normal workweek. Upon approval of the installation, a certificate of occupancy shall be issued.
- 6) A water sample shall be required prior to issuance of permit to establish quality of water prior to occupancy.
- 7) It shall be unlawful to use or occupy any premises for which a wastewater disposal permit is required until a certificate of occupancy is issued by the Administrative Officer stating that the construction of the structure and disposal system conform to this by-law.

**C) SPECIFIC LOT & USE DIMENSIONAL REQUIREMENTS**

- 1) Every structure shall be set back at least 25 feet from property lines, year-round streams and ponds, and at least 70 feet from the center of the common and public rights-of-way, unless reduced by P.R.D. or district requirements.
  - a) Exception: Where a structure pre-dates zoning requirements regarding setbacks and protrudes into a set-back area it may be extended and enlarged in one direction only along the line of the existing structure, provided that it does not extend into the right-of-way.
- 2) No lot shall be so reduced in size that the area, setback or other dimensions are smaller than those prescribed in this by-law.
- 3) The following minimum dimensional requirements for specific uses shall apply, except in cases where the specific district requirements are larger:

| <b>SPECIFIC USE DIMENSIONAL REQUIREMENTS</b> |                 |   |                     |                 |
|--|-----------------|---|---------------------|-----------------|
| <b>Use</b>                                   | <b>Lot size</b> | <b>Setback from center of road right-of-way</b> | <b>Setback Yard</b> | <b>Frontage</b> |
| Lodging establishments                       | 1 acre          | 60 feet   | 25 feet             | 100 feet        |
| Restaurant                                   | 1 acre          | 60 feet   | 25 feet             | 100 feet        |
| Auto Service Station                         | 1 acre          | 60 feet   | 25 feet             | 100 feet        |
| Retail Store                                 | 1 acre          | 60 feet   | 25 feet             | 100 feet        |
| Agribusiness                                 | 1 acre          | 60 feet   | 25 feet             | 100 feet        |
| Motor Vehicles & Equip Sales and Service     | 1.5 acres       | 60 feet   | 25 feet             | 100 feet        |

|   |  |         |         |          |
|---|--|---------|---------|----------|
| Commercial Indoor & Outdoor Recreation Facilities | 3 acres                                | 60 ft   | 25 feet | 100 feet |
| Business & Soc. Service                           | Same as district                       | 50 feet | 25 feet | 100 feet |
| Industrial Uses                                   | 4 acres                                | 60 feet | 50 feet | 200 feet |
| Agricultural Uses*                                | -- according to AAP recommendations -- |         |         |          |

\*Applied to farm structures and uses other than dwellings.

#### D) HEIGHT OF STRUCTURES

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

#### E) PERFORMANCE STANDARDS

- 1) The following standards of performance must be met and maintained by uses in all districts. No use of land or structures shall:
  - a) Emit odors, noise, dust, dirt, noxious smoke or gases or other disturbances which are offensive and uncharacteristic of the area or which cause damage to any home business, vegetation or other property, or which endangers the health, safety or welfare of the neighborhood.
  - b) Present an unreasonable risk as to fire, explosion, or hazard to any adjacent property or vehicular traffic.
  - c) Cause sewage or other harmful wastes to be discharged into any watercourse or into any disposal facility beyond its proper capacity. All local, state and federal health standards shall be complied with.
  - d) No building shall be erected or occupied without permanent foundations and permanent siding. Pole-barn construction shall be regarded as having permanent foundations.

#### F) TEMPORARY USES

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

#### G) HOME OCCUPATIONS

- 1) No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling or accessory structure for an occupation, which is customary in residential areas which does not change the character thereof.
- 2) Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

- a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures.
- b) The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted.
- c) No traffic shall be generated which would be uncharacteristic of the neighborhood.
- d) Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.

**H) PARKING REQUIREMENTS**

- 1) Adequate provision shall be made so that normal vehicular traffic to any use may be parked off the public roads and highways. Spaces shall be provided as follows whenever any new use is established or when the present use is expanded.

| <b>SPECIFIC USE PARKING REQUIREMENTS</b>       |  |
|--|--|
| Residential and apartments                     | 2 per dwelling unit  |
| Rooming & boarding, and lodging establishments | 1 per (rental) lodging unit                                |
| Professional and business offices              | 1 per 200 sq. ft of floor space                            |
| Retail and repair establishments               | 1 per 250 ft of floor area                                 |
| Restaurants including                          | 1 per employee plus 1 per 4 seats (not including drive-in) |
| Industry                                       | 1 per employee on the largest shift                        |
| Unspecified uses                               | As required by the board of adjustment                     |

- 2) The Board of Adjustment may require additional or shared parking and loading space, if it is found that the above specified standards are not sufficient.

**I) SIGNS**

- 1) A building permit shall be required prior to the erection, construction or replacement of any outdoor sign except the following, which shall be exempt from this bylaw:
  - a) Public highway signs
  - b) Non-advertising signs placed for directional or safety purposes (e.g.: "Rest rooms," "Telephone," "Office," "Exit," "Falling Ice," "Fire extinguisher," "No Trespassing," etc.)
  - c) Temporary auction, lawn sale, or real estate for sale signs, not to exceed two in number and not to exceed 15 square feet in combined area. All such temporary signs shall be promptly removed when they have fulfilled their function.

- 2) The following shall be prohibited in all districts:
  - a) Signs, which impair highway safety;
  - b) Signs which are animated, gaudy, flashing, or intermittently illuminated, and signs painted or placed on rock outcrops or similar natural features;
  - c) Roof signs, and wall signs, which extend above the roofline;
  - d) Signs, which project over public rights-of-way or property lines.
  
- 3) Off-premises signs shall comply with all State laws. On premises signs may be permitted as provided below:

| Premises                                  | Max. # of Signs/<br>Premises | Max Sign Area Any Sign,<br>All Signs | Max Height of<br>Free-Stand Signs |
|---|------------------------------|--------------------------------------|-----------------------------------|
| Home Occupation                           | 1                            | 4 square feet, 4 square feet         | 6 feet                            |
| Business/Industry                         | 2                            | 36 square feet, 72 square feet       | 25 feet                           |
| Church, School or other public use        | 3                            | 24 square feet, 24 square feet       | 15 feet                           |
| See Part IV for definition of "Sign Area" |                              |                                      |                                   |

- 4) Illuminated signs shall be lighted so as not to produce undue glare, hazard or distraction to traffic or adjacent uses of land. Illumination shall be properly focused upon (or from within) the sign itself.
  
- 5) Notwithstanding the Section 3.4(C) Setback requirements for structures, free-standing signs may be placed at the edge of the highway right-of-way. However, such signs shall not be located within 20 ft. of adjacent private property, unless combined on the same stand with the sign of an adjacent business.

**J) LAND FILLING & EXCAVATION**

- 1) Any major land filling or excavation, which would cause a substantial change in the rate or direction of drainage, shall be permitted only upon approval of the Board of Adjustment, after a public hearing. The Board shall consider the existing and proposed grades and the materials to be used; appropriate conditions and safeguards may be imposed to minimize the adverse effects on other properties, such as erosion and siltation.
  
- 2) Commercial or industrial extraction of earth resources shall be permitted only upon conditional use approval by the Board of Adjustment. Before approval may be granted, the applicant shall:
  - a) Submit an acceptable plan showing existing and proposed finish grades of the site to demonstrate that the site will be left in a usable condition;
  - b) Agree to cover the finished grades, except exposed ledge rock, with at least 3 inches of top soil and seed with a suitable crop cover upon completion of the operation; and
  - c) Post bond with Town Treasurer sufficient to guarantee such restoration of the site, if required by the Board of Adjustment (see also Section 4407 (8) of the Act).

### **K) OPEN STORAGE OF VEHICLES & JUNK**

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

### **L) DAMAGED STRUCTURES & ABANDONMENT OF CONSTRUCTION**

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

### **M) MOBILE HOMES & MOBILE HOME PARKS**

- 1) Pursuant to the Act, Section 4406 (4), a mobile home 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 under Section 3.4(F) of this bylaw. In addition, mobile homes may be permitted in a mobile home park subject to the requirements of this section and State law.
  - a) New mobile home parks, and any addition or alteration to an existing mobile home park shall require conditional use approval by the Board of Adjustment.
  - b) A mobile home park shall have a continuous use area of not less than 5 acres and not more than 30 acres. The maximum density of any mobile home park shall not exceed an overall average of one mobile home per acre.
  - c) A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit of office, utility or service building may be placed in this buffer area. However, the Board of Adjustment may reduce or eliminate this landscaped area requirement if such a modification or waiver will make it possible to preserve a scenic view from the mobile home park, provided that privacy for adjacent property owners can be maintained.
  - d) The minimum mobile home lot size shall meet the district requirement unless all lots are provided with public or common sewage disposal, in which case the minimum mobile home lot size shall be 30% less than the district minimum lot size.
  - e) Each mobile home lot whether individual or in a mobile home park shall have at least 50 feet of frontage on mobile home park road. Said roads shall be constructed to the selectmen's road standards.
  - f) A suitable, non-porous pad at least 4 inches thick shall be provided for each mobile home lot. A minimum setback of 25 feet is required on each mobile home lot.
  - g) Sewage disposal, water supply and garbage facilities shall comply with state regulations (see also section 3.4(B) above). All electric, telephone and other utility lines may be underground, unless the applicant can demonstrate that

due to utility company standards or pricing procedures an unreasonable financial hardship will be created.

- h) Each mobile home park shall provide at least 10% of its total size for recreational purposes and be fully screened by trees and shrubs. All open space is subject to the provisions of Planned Residential Developments (See Section 3.4(O)).

**N) CAMPING VEHICLES & CAMPGROUNDS**

- 1) Any camping vehicle used for living quarters and sited so as not to be readily movable shall be deemed a dwelling and shall be subject to all zoning regulations applicable to dwellings.
- 2) New campgrounds, and any addition or alteration to an existing campground shall be subject to the following regulations:
  - a) Conditional use approval is required.
  - b) Campgrounds shall provide for lavatory, shower and toilet facilities and individual camping vehicle or tent space. All campgrounds shall comply with state regulations.
  - c) A strip of land at least 25 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent or service building shall be located in this buffer area. The Board of Adjustment may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve a scenic view from the campground, providing that privacy for adjacent property owners can be maintained.
  - d) Collector roads within the campground shall meet the following minimum standards:

|                     | One-way roads | Two-way roads |
|---------------------|---------------|---------------|
| Right-of-way widths | 18 ft         | 33 ft         |
| Gravel depth        | 12 inches     | 12 inches     |
| Gravel width        | 10 ft         | 20ft          |

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

**O) PLANNED RESIDENTIAL DEVELOPMENTS & PLANNED UNIT DEVELOPMENTS**

- 1) In accordance with Section 4404 (3) and (12) of the Act, the Planning Commission is permitted to modify this bylaw for either a planned unit development (P.U.D.) or a planned residential development (P.R.D.) simultaneously with the final approval of a subdivision plot. The purpose of this provision is to enable clustering and other innovations, in design and more efficient uses of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the town.

- 2) To qualify, a P.U.D. or P.R.D. project shall:
  - a) Contain at least three contiguous acres;
  - b) Conform to the definitions herein and to the requirements of Section 4404 of the Act.
  
- 3) Planned unit developments and planned residential developments are subject to the following provisions:
  - a) Proposals shall be submitted to the Planning Commission and shall include a site plan showing the location and general designs of all structures, open spaces, landscaping, driveways, streets, parking areas, easements and all other physical features, together with a statement setting forth the nature of all proposed modifications of this bylaw.
  - b) 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.
  - c) Density may vary within the development, however, in any P.R.D., the number of dwelling units shall not exceed the number which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots in conformance with the applicable district requirements of this bylaw. In any P.U.D., overall density of the principal uses and dwelling units shall not exceed 20% more than the prescribed district density. The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development.
  - d) The project shall be subject to the review considerations and standards under Article III of these by-laws.
  - e) Where the clustering of uses in a project will result in open or undeveloped space on the tract, the Planning Commission shall condition approval of the project upon the establishment of an open space easement, conservation restriction, or similar instrument for such portion of the tract to ensure conformance with subsection (c) above. The Planning Commission may require a P.R.D. where it is found that it would further its purposes set forth in the plan and section (b) of the Zoning Regulations. Such instrument shall be legally enforceable by the Town and shall run with the land at least until a future amendment of the zoning district density may provide for additional development of the tract. Further, the Planning Commission may impose conditions as to the ownership, uses and maintenance of such open space as it deems appropriate for the nature of the project and the land to meet the purposes of these by-laws, the Town Plan and the Act.
  
- 4) Upon approval of the planned unit development or planned residential development by the Planning Commission, the necessary modifications of this bylaw shall be noted in a report and, together with the approved proposal, submitted to the Administrative Officer. All other provisions of this bylaw not specifically modified shall remain in force and be applicable to the project.
  
- 5) As provided in the Act, Section 4407 (12), the Planning Commission may prescribe from time to time, supplementary rules and regulations for any planned unit

development. The Planning Commission shall hold a public hearing prior to the establishment of any such rules and regulations.

**P) PUBLIC FACILITIES**

- 1) Pursuant to Section 4413 of the Act, adequate provisions have been made within this Bylaw for the location of the following uses in appropriate zoning districts:
  - a) Churches and other places of worship
  - b) State and community owned and operated institutions and facilities.
  - c) Public and private schools and other educational institutions certified by the Vermont Department of Education.
  - d) Public and private hospitals.
- 2) The above uses are allowable either individually or under various classifications (essential public services, public uses, etc.) in specified districts and subject to all applicable provisions in this bylaw relating to size, height, bulk, yards, setbacks, density of buildings, off-street parking & loading facilities and landscaping of screening requirements.
- 3) The following standards may be considered in reviewing public uses:
  - a) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting and landscaping or screening requirements and only to the extent that regulations do not have the effect of interfering with the intended functional use
  - b) Adequate circulation, parking and loading facilities shall be provided with particular consideration to visibility at intersections, traffic flow and control, pedestrian safety, and access in case of an emergency.
  - c) To protect the privacy of adjoining property owners, additional yard space or setbacks or the use from the property line other than what is already required in the district may be required.
  - d) The density, size, height or bulk of buildings may be increased or decreased as needed to ensure compatibility with established patterns of land use.

**Q) ACCESSORY DWELLING UNIT**

- 1) An accessory dwelling unit that is located within or appurtenant to an owner occupied single-family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:
  - a) The property has sufficient wastewater capacity  
The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
  - b) Applicable setback, coverage and parking requirements specified by the bylaws are met.
  - c) The owner occupies either the primary dwelling or accessory dwelling.

## **R) AGRICULTURAL HOUSING**

- 1) Agricultural housing which is intended solely to house farm workers and their families or seasonal or migrant agricultural workers, and is necessary to the principal agricultural use of a property, may be approved subject to the following provisions:
  - a) Up to two additional single family dwellings, not including the farm residence, may be approved as conditional uses in all districts, subject to the following requirements:
  - b) Occupancy is restricted to farm workers and their families;
  - c) Adequate water supply, septic and off-street parking capacity must exist to accommodate residents;
- 2) The permit shall clearly state that this dwelling is necessary to the principal agricultural use of the property and shall be retained in common ownership for this purpose. An necessary agricultural dwelling may only be occupied, and/or converted for sale or use as a single family dwelling separate from the agricultural use if it meets all current local and state regulations and bylaws applying to single family dwellings, including, density, dimensional and other requirements for the district in which it is located. New permits, subject to the permit allocation system, shall be required prior to sale and/or conversion for non-agricultural residential use.
- 3) Group housing for seasonal or migrant agricultural workers may be approved in all districts to conditional use review and the following requirements:
  - a) Occupancy is restricted to farm workers and their families; and
  - b) The housing shall be located to minimize adverse impacts to the farming operation, primary agricultural soils, scenic views and open space, and neighboring properties. Landscaping and screening may be required as appropriate.
  - c) Adequate water supply, septic system and off-street parking capacity exist to accommodate residents of the accessory dwelling.
  - d) Agricultural Housing may be approved as a conditional use only in response to an emergency; the Zoning Board of Adjustment will make determinations as to what constitutes an emergency.

## **S) AFFORDABLE HOUSING UNITS**

- 1) Housing units to be considered, for the purposes of these bylaws, as affordable housing units shall:
  - a) demonstrate the project's compliance with all applicable zoning provisions as outlined in the Fairfield Zoning and Subdivision Bylaws;
  - b) housing that is owned or rented by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, or rent, is not more than 30 percent of the household's gross annual income be limited to rental or owner-occupied dwellings;
  - c) be restricted for affordability for a minimum of thirty (30) years. Provisions such as limited equity housing cooperatives, perpetually restricted housing

(e.g. housing or community land trust projects), federal and state affordable or subsidized housing programs, or other similar legal mechanisms may be utilized to assure the affordability;

- d) The provisions of the long-term affordability mechanisms must be outlined in the warrantee deed of any and all residential structures to considered affordable housing units. A copy of the terms and mechanisms must be properly recorded with the Town Clerk.

#### **T) HOME CHILD CARE**

- 1) A "family child care home or facility" as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for childcare. A family childcare home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family childcare home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval based on local zoning requirements. A family childcare facility serving more than six full-time and four part-time children shall be reviewed as a conditional use.

# ARTICLE 4

## Definitions

### SECTION 4.1 Applicability

Except where specifically defined herein or in the Act, all words in this bylaw shall carry their customary meanings. Any interpretation of words or terms by the Administrative Officer may be appealed to the Board of Adjustment for a declaratory ruling. The Board shall publish and update from time to time such rulings of interpretation, to ensure consistent and uniform application of these zoning regulations.

### **Accessory Use/Structure**

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

- 1) The property has sufficient wastewater capacity
- 2) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- 3) Applicable setback, coverage and parking requirements specified by the bylaws are met.
- 4) The owner occupies either the primary dwelling or accessory dwelling.
- 5) A use or structure which is incidental and subordinate to the principal use or structure and located on the same lot such as patios, swimming pools, porches, garages, tool sheds and the like.
- 6) A structure used for dwelling purposes shall not be considered an accessory structure except in the case of an operating farm where the farmhouse and customary dwellings for farm laborers may be considered accessory to the agricultural use.

### **Affordable Housing**

Housing that is owned or rented by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, or rent, is not more than 30 percent of the household's gross annual income. Housing specifically designed and established to meet the needs of households at or below the median income for the county, at costs (excluding utilities) which do not exceed twenty-eight percent (28%) of the gross household income. Affordable housing units are limited to rental or owner-occupied dwelling units intended for long-term affordability through limited equity housing cooperatives, perpetually restricted housing (e.g. housing or community land trust projects), federal and state affordable or subsidized housing programs, or other similar legal mechanisms.

**Agribusiness**

Agricultural use structures and land primarily used for cultivating the soil, producing crops (including forest products) or raising livestock, including the sale of farm crops, horticultural products, livestock, or forest products raised on the property are uses considered to be part of agribusiness. Agribusiness does not include slaughterhouses.

**Building**

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

**Business Services**

Included banks, consulting firm, insurance or real estate agency, barbershop, beauty parlor, laundry, photographic studios, and similar establishments providing services (not goods or manufacture) to individuals, institutions, farms, industries or other businesses, where such professional offices or personal service establishments do not qualify as home occupations.

**Camp/Cabin**

A hunting camp, hut, shed or similar simple structure used to shelter people from the weather for a hunting or vacation weekend. May not be used as a permanent dwelling, and the owner or lessee may not use the dwelling to establish residency in Fairfield. A camp or cabin is differentiated from a seasonal dwelling, which must have the same septic system as a permanent dwelling.

**Campground**

A place or business providing tenting or camping vehicle accommodations for commercial purposes, including travel trailer parks and the like.

**Camping Vehicle**

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

**Club**

A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other non-profit 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.

**Communications Facilities**

Any structure and/or equipment which is used for the transmission, into the atmosphere or transmission and reception from the atmosphere, of radio frequency waves of a

telecommunications provider, including any tower or structure on which such equipment is located, whether owned by the provider or some other entity, and also including any accessory structure located on the telecommunications property. This definition includes facilities for the broadcasting of radio communications. If no higher than 35 feet, amateur (ham) radio; citizens band radio; local business radio dispatch; and personal use antennae are exempt from this definition.

### **Construction**

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

### **Development**

The division of a parcel of land into two or more parcels; new construction, substantial improvement, replacement or relocation of any structure; enlargement of any mining excavation or landfill; and any change in the use of any structure, or land, or extension of use of land (see also substantial improvement and "Land Development" in the Act. Section 4303(3)).

### **Dwelling**

A building designed or used as the seasonal or permanent living quarters for one or more families (one family domiciled per dwelling unit). For the purpose of this definition, a "family" shall mean one or more persons living as a household (dwelling) unit, but not including individuals or groups occupying rooming and boarding houses, clubs, motels or hotels. A group or community care home serving not more than six persons who are developmentally disabled or physically handicapped (i.e.: state licensed class F or G group homes) shall be considered a single family dwelling (and shall be regulated in the same manner as a single family dwelling), except that no such home shall be so considered if it locates within one thousand (1,000) feet of another such home.

### **Elderly Housing**

Housing specifically designed, built, operated and reserved for elderly residents (55 years and older), consistent with state and federal fair housing standards and requirements. Within the two village boundaries, elderly housing will not be subject to the permit allocation system. The conversion of elderly housing for sale or lease on the general housing market shall require a zoning permit under all applicable provisions of these bylaws, including permit allocation provisions under Section 3.1(E).

### **Essential Public Services**

Included the construction or installation (by public utilities, municipal or other governmental agencies or private groups) of "local consumer" electric and telephone distribution lines, facilities for fire, police, highway and health services to the Town, or other similar equipment and accessories necessary for the furnishing of essential services. Also included are churches, convents and parish houses.

### **Excavation**

Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns which substantially affects adjacent properties. Common agricultural tillage, ground care, gardening and excavations in cemeteries shall be exempt from this bylaw.

**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.

**Industrial Uses**

Industrial uses shall include both manufacturing and warehousing; specifically those activities involving the processing, fabrication, and/ or temporary storage of materials and products.

**Interested Person**

A party who may legally appeal to the Board of Adjustment or Superior Court, as prescribed by the Act, Section 4464(b), generally including any of the following: (1) the party owning title to the subject property, or the designated agent of said party; (2) property owners in the immediate neighborhood per the act 4463(b)(3); (3) any ten property owners in the Town who file a petition with the Board of Adjustment per the act 4464(b)(4); (4) the Board of Selectmen of the Town, or of any adjoining town; (5) the Town Conservation Commission, if any; and (6) certain state agencies.

**Junk Yard**

Land used for the outdoor collection, storage, or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage or sale of machinery or vehicles which are not inspected and not in operating condition (vehicles used in farm operation exempt). An area in excess of two hundred (200) square feet shall be deemed a "junk yard" if so used.

**Lodging Establishment**

A building or buildings containing rooms which are rented (for commercial purposes) as sleeping units for transients, each sleeping unit consisting of, at least, a bedroom and use of a bathroom. Included are hotels, motels, tourist courts, cabins, motor lodges and the like.

**Lot**

A parcel of land occupied or to be occupied by only one principal building and the accessory building or uses customarily incidental to it, having sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the Planning Commission. A lot may consist of: (1) a single lot of record; (2) a portion of a lot of record; (3) a combination of complete lots of record and/or portions of lots of record; (4) a parcel of land described by metes and bounds.

**Lot Frontage**

The boundary length of a lot on a maintained public road or other approved access.

**Lot of Record**

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

**Meadow**

An area of land of any size on which grass is cut for any purpose, and/or in accordance with Fairfield tradition.

**Motor Vehicle and Equipment Sales and Service**

An establishment providing sales and major servicing of automobiles, trucks, farm and construction equipment, and other motorized vehicles, including dealerships, body shops, vehicle and equipment repair shops, mobile home and camping vehicle sales/service establishments and the like. Also includes junkyards (as defined above).

**Minimum Lot Size**

The smallest lot area on which any land or building development, construction, alteration, addition to an existing structure, or change in use is permitted if also in conformance with all other provisions of this Bylaw.

**Mobile Home**

A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. (see also Mobile Homes in 10 V.S.A. 6201).

**Mobile Home Park**

A parcel of land, under single or common ownership or control, which is used (or is to be used) to accommodate more than two mobile homes. (See also Mobile Home Park, 10 V.S.A. 6201).

**Non-Conforming Structure**

A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer 24 V.S.A. 4303(14)

**Non-Conforming Use**

Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer 24 V.S.A. 4303(15)

**Non-Conforming Lot or Parcel**

Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. 4303(13)

**Parking Space**

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

**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 Residential Development**

A proposal to The Planning Commission for a unique and innovative project to provide a different arrangement of housing units than otherwise possible under this bylaw. (see also the Act, Section 4407(3) and Section 3.4(O) herein).

**Planned Unit Development**

A proposal to the Planning Commission for a unique and innovative project to provide a different mixture, density and arrangement of uses than otherwise possible under this bylaw. (see also the Act, Section 4407(12) and 3.4(O) herein). The project may include any combination of commercial uses, industrial uses, recreational use, 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. (see 27 V.S.A. Section 1403).

**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.

**Principal Building/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.

**Public Uses & Facilities**

Includes the erection, construction and alteration in facilities or nature of use (by any municipal, state or federal government, public utility or other quasi-public institutions) of public buildings, electric transmission lines, recreation facilities, water supply and sewage treatment facilities, and including public and private schools or other educational institutions certified by the Vermont Department of Education.

**Recreation-Indoor**

Included indoor bowling alleys, theaters, pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

**Recreation-Outdoor**

Includes golf courses, golf driving, trap, skeet, or archery ranges, swimming pool, skating ring, tennis court, riding stable, park beach, recreation stadium, skiing campgrounds, and similar places of outdoor commercial recreation.

**Residential Lodging**

Includes rooming and boarding houses not to exceed five rental units. (See also lodging establishment.)

**Residential Use**

Includes single-family, two-family, and multi-family dwellings.

**Restaurant**

Includes diner, bar, lounge, nightclub, and similar establishments.

**Retail Sales**

Includes shops and stores for the sale of small retail goods, such as grocery, hardware and general stores and includes small repair shops.

**Rights of Way, Public**

Public Rights of Way shall be classified in two categories.

- 1) Public Rights of Way I provide access by means of public highways, including State highways, Class III or better.
- 2) Public Rights of Way II provide access by means of public highways or rights of way, Class IV or less. Class IV town highways are all other town highways, including trails and pent roads, which are not Class III or better. The Selectmen shall determine which highways are Class IV town highways. The town will not provide improvements or maintenance to any Class 4 roads not presently being maintained. Class IV roads which are presently being maintained will not be maintained beyond their current level of maintenance.

**Rights of Way, Private**

Private Rights of Way will be classified in two categories.

- 1) Private Rights of Way I is a "driveway" which serves as access to property and may provide access for the purpose of development of not more than two dwelling units and the sale, lease, or transfer of ownership of land. Driveways shall not be accorded any Municipal services and will not count as "road frontage" to meet zoning requirements. No "landlocked" lots may be created.
- 2) Private Rights of Way II are "development roads" which serve more than two lots and/or provides access for the sale, lease, or transfer of ownership of lots. No landlocked lots may be created. Development roads shall not be reclassified as "public right of way". It shall be the sole responsibility of the landowners or the landowners association to maintain the road. Development roads shall not count to meet road frontage requirements of the zoning bylaw.

**Seasonal Dwelling**

A dwelling unit, which is not the primary residence of the owner or occupant and is occupied only on a part-time or seasonal basis. This definition shall include any dwelling which is occupied six (6) months or less over a twelve (12) month period of time, including weekends; any dwelling which lacks one or more of the basic amenities or utilities required for year-round

or all-weather occupancy, including a winterized water system, insulated walls and roof, a heating source, and/or an adequate wastewater system; and/or any dwelling which is specifically permitted as a seasonal dwelling. The conversion or upgrade of a seasonal dwelling for year-round use shall require a zoning permit under all applicable provisions of these bylaws, including permit allocation provisions under Section 3.1(E) and the owner or lessee may not use the dwelling to establish residency in Fairfield.

### **Setback**

The nearest distance between a public or private road right-of-way and a structure (including all features of the structure).

### **Sign**

Any display or representation used or placed as an announcement, direction or advertisement. The word "placed" for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed or made visible in any manner whatever.

### **Sign Area**

When computing the total permissible sign area for any use:

- 1) Existing signs shall be included.
- 2) The total area of all signs shall not exceed the requirements as set forth in these regulations.
- 3) Signs consisting of free standing letters, numerals, or other components shall include any intervening space between them.
- 4) Only the larger face area of a double-faced or v-type sign shall be used.
- 5) Back-to-back signs may be counted as one sign.

### **Social Services**

Includes day-care centers, medical clinics, convalescent homes, and similar human service/health care facilities, and group or community care homes serving more than six persons. (See also club and dwelling.)

### **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, garages, carports, porches, patios, swimming pools, and any other outbuildings and building features. Not included are sidewalks, driveways, fences and temporary docks or floats.

### **Structure Height**

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

### **Sub-divider**

Any person, firm, corporation, partnership, or association, or any of these entities working in cooperation, or his or her or their authorized agent who shall lay out for the purpose of sale or development, any subdivision or part thereof as defined herein.

**Subdivision**

Division of any lot or parcel of land, after the effective date of this bylaw, into three or more lots of any size over a 12 month period of time, for the purpose of conveyance, transfer of ownership, improvement, building development, lease, or sale, including sale at auction. The term "subdivision" includes re-subdivision and amendments to subdivisions.

**Substantial Improvement**

Exterior construction, reconstruction, addition, alteration or replacement of a structure which results in new floor space or building area in excess of 50 square feet.

**Town Road**

A road maintained by the town, classified as class 3, or better.

**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 abutting all year-round streams and property lines of a lot (except road frontage), unoccupied by a structure from the ground upward except as otherwise provided in these regulations. The required yard distances shall be determined in the same manner as the setback (See setback.)

