

FAIRLEE SUBDIVISION REGULATIONS

Adopted

December 15, 1992

**Prepared for the Fairlee Planning Commission by the
Two Rivers - Ottauquechee Regional Commission
Woodstock, VT**

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ARTICLE 1. AUTHORITY AND PURPOSE

Section 1: Title

These Regulations shall be known as the Town of Fairlee Subdivision Regulations.

Section 2: Enactment and Authority

It is hereby declared to be the policy of the Town of Fairlee to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the subdivision regulations of the Town of Fairlee, Vermont, as expressed herein, pursuant to the Vermont Planning and Development Act, 24 V.S.A., Chapter 117.

Section 3: Purpose

These Regulations are hereby adopted for the following purposes:

1. To insure that development conforms to the policies set forth in the Fairlee Town Plan. The Commission shall refer to the goals, objectives, policies, and data contained in the Town Plan in making discretionary decisions;
2. To insure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, historical resources, and present and potential uses of land as identified in the maps and text of the Town Plan;
3. To insure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including, but not limited to the Town of Fairlee Zoning Regulations and Health Ordinance;
4. To protect and provide for the health, safety, and general welfare of the Town, its property owners and its inhabitants;
5. To guide the future growth and orderly development of the Town;
6. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic;
7. To provide for the conservation and protection of the natural, visual, and historical assets of the Town; the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels; the preservation of adequate open space between developments; and the preservation of land values and an adequate tax base;
8. To insure that development encourages efficient and economic uses of energy that are consistent with current technology;
9. To insure that adequate public facilities and services such as parks and open spaces, recreation areas, schools, police and fire protection, and water supply and sewage disposal are provided; and

10. To control the rate of growth in Fairlee in order to insure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

Section 4: Subdivision Waivers

In the case of a minor subdivision, the Planning Commission may waive or vary, subject to appropriate conditions, the provisions of any or all application or review procedures, submittal and development requirements as in its judgement of the special circumstances of a particular plat are not requisite in the interest of public health, safety and general welfare, nor required by the Act. The request for a waiver shall be made by the applicant, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the Planning Commission to reach a decision. In such a case, the Planning Commission may, following the Discussion Phase, referenced in Section 2 of Article II, move to waive certain requirements and approve the project with appropriate conditions.

In granting waivers, the Planning Commission shall require such conditions as will in its judgement secure substantially the objectives of the requirements varied or waived.

Section 5: Subdivision Application Procedures In Summary

Minor Subdivision Application Procedures:

Discussion Phase: Initial meeting and classification of project.

Within six (6) months after submittal: Final plan submittal.

Within 30 days after final plan submittal: Public Hearing (including written evidence of approval by all governmental agencies where approval is required by statute or administrative procedure).

Within 45 days after Public Hearing: Approval for construction or sale.

Within 90 days after Public Hearing: Plat recording.

On completion: Submission of as-built drawings, if applicable.

Major Subdivision Application Procedures:

Discussion Phase: Initial meeting and classification of project.

Within six (6) months after initial meeting: Preliminary Plan Application.

Within 45 days after preliminary plan application: Public Hearing.

Within six (6) months after preliminary plan approval: Final Plan Application.

Within 30 days after plan application: Final Public Hearing (including written evidence of approval by all governmental agencies having jurisdiction over the project).

Within 45 days after Final Public Hearing: Approval for construction or sale.

Within 90 days after approval for construction: Plat recording.

On completion: submission of as-built drawings, if applicable.

ARTICLE II. SUBDIVISION APPLICATION PROCEDURES

Section 1: General

Whenever any subdivision of land is proposed, before construction is commenced thereon, before any contract for sale of all or any part of the land or structures involved, before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plat may be filed with the Town Clerk, the subdivider or his/her authorized agent shall apply for and secure final approval of such proposed subdivision in accordance with the procedure outlined below.

Section 2: Discussion Phase

Initial Meeting:

The applicant shall request, by dated letter, a meeting with the Planning Commission to discuss the proposed subdivision. At least 15 days prior to the meeting, the applicant shall submit two copies of the following information:

- a. Name and address of the landowner and/or applicant, names of all adjacent property owners, and name of the project.
- b. A sketch plan showing areas that are wooded, open, wet or steeply sloped, showing the proposed layout of streets, lots and other features, the project boundaries, adjacent land uses, and a map showing the general location of the property in relationship to the surrounding area.
- c. A written description of the proposed development plans, including the number and size of the lots, and general siting of construction.
- d. A written description of the type(s) of water supply and sewage disposal systems anticipated to serve the subdivision.

The Planning Commission may require additional information before recommending that the applicant proceed with the application.

Classification of the Project:

At this meeting, the Planning Commission will classify the project into one of two categories as defined in Article VII of these Regulations: major subdivision or minor subdivision.

The Planning Commission shall review the sketch plan and other information required to be presented at the initial meeting to determine whether or not it conforms to, or would be in conflict with, the Town Plan and the Zoning Regulations, and/or any other applicable Town regulations.

The Planning Commission shall determine whether the project meets the purposes of these Regulations and may make specific written recommendations for changes.

Where the applicant submits a proposal for a planned unit development, the Planning Commission shall simultaneously review the application under the criteria established in both these Regulations and the Town of Fairlee Zoning Regulations.

Section 3: Minor Subdivision Application and Procedure

Final Plan Submittal:

Within six (6) months of the classification by the Planning Commission of the project as a Minor Subdivision, the subdivider shall submit an application for approval of a subdivision plan to the Secretary of the Planning Commission, according to the requirements set forth in Article III, Section 1 of these Regulations. The subdivision plan shall conform to the layout presented to the Planning Commission at the Discussion Phase, plus any recommendations made by the Planning Commission.

Final Plan Hearing:

A public hearing shall be held by the Planning Commission after receipt of the final subdivision application; said hearing to be publicly warned at least 15 days in advance of the hearing date.

Final Plan Approval:

The Planning Commission shall, within 45 days from the adjournment of the Final Plan Hearing, approve, modify, or disapprove the Final Plan and notify applicant accordingly in writing. Failure to act within such 45 days period shall be deemed approval.

Phasing:

At the time the Planning Commission grants Final Plan Approval, it may require the plat to be divided into two or more phases to insure conformity with the Town Plan and may impose such conditions upon the filing of application for final plat approval for each phase as it deems necessary to assure the orderly development of the plat and to avoid overburdening Town facilities and services.

Plat Recording:

All subdivisions must be recorded by the applicant in the office of the Town Clerk within 90 days of the date of Final Plan Approval or the approval expires. Prior to recording, the plat must be signed by two authorized members of the Planning Commission. For any subdivision which requires the construction of roads or other public improvements by the applicant, the authorized members of the Planning Commission may not sign the approved plat until the subdivider has:

- a. met the requirements, if any, of Article V, Section 7, Performance Bond Requirements, of these Regulations; or
- b. constructed all public improvements in accordance with approved plans as determined by the Planning Commission.

Two copies of approved Final Plan shall be filed with the Town clerk. The Plan to be recorded shall be of a size determined by the Planning Commission.

Section 4: Major Subdivision Application and Procedure

Preliminary Plan Application:

Within 6 months after classification of the project as a Major Subdivision by the Planning Commission, the subdivider shall submit an application for approval of a preliminary plan to the Planning Commission. The application shall conform to the requirements set forth in Article III, Section 3 of these Regulations and shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Commission. Failure to do so will require resubmission to the Planning Commission for Discussion Phase review.

Approval of Preliminary Plan:

Within 45 days after formal submission of all preliminary plan information required by the Planning Commission, the Planning Commission shall conduct a preliminary public hearing said hearing to be publicly warned at least 15 days in advance of the hearing date. Within 45 days of the date of adjournment of the hearing, the Planning Commission shall approve, with or without modification, or disapprove to said preliminary plan. Any conditions of the approval or grounds for disapproval shall be set forth in a written notice of decision.

Phasing:

At the time the Planning Commission grants Preliminary Plan approval, it may require the plat to be divided into two or more phases to insure conformity with the Town Plan and may impose such conditions upon the filing of application for final plat approval for each phase as it deems necessary to assure the orderly development of the plat and to avoid overburdening Town facilities and services.

Validity of Preliminary Plan Approval:

Approval of the Preliminary Plan shall not constitute approval of the subdivision plan. Prior to approval of the final subdivision plan, the Planning Commission may require additional changes, as a result of further study.

Subsequent to the approval of the Preliminary Plan, the applicant shall submit the approved plan to the Selectmen, Board of Adjustment, Health Officer and other local entities with jurisdiction over the project and to such regional, State, and Federal agencies as may be required by law. Upon receipt of evidence of approval of the Preliminary Plan by said agencies and the expiration of all relevant appeal periods, the applicant may apply to the Planning Commission for Final Plan approval.

The approval of a Preliminary Plan shall be effective for a period of 6 months from the date of the written notice of approval.

Final Plan Application:

Within six (6) months of Preliminary Plan approval, the subdivider shall submit an application for approval

of a Final Subdivision Plat. If the subdivider fails to do so, he shall be required to resubmit a new plat for Preliminary Plan approval subject to any new zoning and subdivision regulations.

The final application must conform to the requirements set forth in Article III, Section 3 of these Regulations, and shall conform to the layout shown on the Preliminary Plan plus any recommendations made by the Planning Commission.

Final Plan Hearing:

A Public Hearing shall be held by the Planning Commission after receipt of the final subdivision application; said hearing to be publicly warned at least 15 days in advance of the hearing date.

Final Plan Approval:

The Planning Commission shall, within 45 days from the adjournment of the Final Plan Hearing, approve, modify, or disapprove the Final Plan and notify applicant in writing. Failure to act within such 45 day period shall be deemed approval.

Plat Recording:

All subdivisions must be recorded in the office of the Town Clerk within 90 days of the date of Final Plan Approval or the approval expires. Prior to recording, the plat must be signed by two authorized members of the Planning Commission. For any subdivision which requires the construction of roads or other public improvements by the applicant, the authorized members of the Planning Commission may not sign the approval plat until the subdivider has:

- a. met the requirements, if any, of Article V, Section 7, Performance Bond Requirements, of these Regulations; or
- b. constructed all public improvements to the satisfaction of the Planning Commission.

Two copies of the approved Final Plan shall be filed with the Town Clerk. The Plan to be recorded shall be of a size determined by the Planning Commission.

ARTICLE III. SUBMISSION REQUIREMENTS**Section 1: Minor Subdivision-Preliminary Layout**

The Preliminary Plan shall consist of the following maps and information. The submittal shall be made in three copies. Information may be preliminary. Maps shall be at a scale no greater than 100 feet per inch.

- a. A completed subdivision permit application form obtainable from the Town Clerk.
- b. All information submitted from the discussion phase.
- c. The provisions of the Zoning Regulations that are applicable to the area to be subdivided and any zoning district boundaries affecting the tract.
- d. A sketch plan of the boundaries of the subdivision parcel(s).
- e. Date, true north point, and scale.
- f. Description of the proposed water supply. If source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.
- g. Description of the proposed sewage disposal system(s). If on-site sewage disposal is proposed, then a registered professional engineer's or certified site technician's report and plans prepared in conformance with State and local health regulations shall be submitted. If a community sewage disposal system is to be used, evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage shall be submitted.
- h. All existing and proposed right of way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities, and other manmade improvements.
- i. A description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
- j. A description of the homeowners association or other forms of management organization, if one is proposed.

Section 2: Minor Subdivision-Final Plan Submittal

The Final Plan Submittal shall consist of four copies of the plot plan and project description and shall include the following information:

- a. All information required for the Preliminary Submittal shall be required in final form

including any revision or additional detail requested by the Planning Commission.

- b. In the event of granting of easements to the Town, a written acknowledgement of the subdivider's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.
- c. Written evidence of approval by local, regional, State, and Federal agencies having jurisdiction over the project, including final approvals for any water supply and sewage disposal systems, and written evidence of the expiration of all appeal periods.

Section 3: Major Subdivision-Preliminary Layout

The Preliminary Plan shall consist of the following maps and information. The submittal shall be made in three copies. Information may be preliminary. Maps shall be at a scale no greater than 100 feet per inch.

- a. A completed subdivision permit application form obtainable from the Town Clerk.
- b. All information submitted from the Discussion Phase.
- c. A statement of the compliance of the proposed subdivision with the Town Plan, the Zoning Regulations, including reference to any zoning variances, and other bylaws in effect.
- d. A complete survey of the boundaries of the subdivision parcel by a licensed surveyor.
- e. Description of proposed water supply system(s). If source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.
- f. A description of proposed sewage disposal system(s). If on-site sewage disposal is proposed, then a registered professional engineer's or certified site technician's report and plans prepared in conformance with State and local health regulations shall be submitted. If a community sewage disposal system is to be used, evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage shall be submitted.
- g. Preliminary grading plans showing areas of cut and fill and revised contours at a contour interval not greater than 5 feet.
- h. A storm water drainage plan, drawn at a contour interval not greater than 5 feet, shall indicate the methods of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
- i. All existing and proposed right of way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities and other manmade improvements.

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- j. Calculation of sight stopping distances for new road or driveway intersections with Town highways.
 - k. Typical landscaping plans showing plant types, ground cover, lighting and signage.
 - l. All land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes, and the methods for assuring and maintaining such dedication or reservation.
 - m. A description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
 - n. A description of the homeowners association or other form of management organization, if such is proposed.

Section 4: Major Subdivision-Final Application

The Final Application shall consist of four copies of a plot plan and project description including the following information:

- a. All information required for the Preliminary Submittal shall be submitted in final form, including any revision or additional detail requested by the Planning Commission.
- b. In the event of granting of easements to the municipality, a written acknowledgement of the subdivider's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.
- c. Written evidence of approval by all local, regional, State and Federal agencies having jurisdiction over the project, including final approvals for any water supply and sewage disposal systems, and written evidence of the expiration of all appeal periods.

ARTICLE IV. PLANNING AND DESIGN STANDARDS

Section 1: General Planning Standards

The Planning Commission shall authorize the creation of lots, and the siting of structures and improvements on those lots in accordance with the following planning standards. Through the use of these standards, the Planning Commission will seek to implement the Town Plan. That Plan is designed to reinforce two principal factors: the historical, rural character of the Town and the natural beauty of its mountain setting. These factors will be strongly influenced by future patterns of land subdivision and development siting. Accordingly, the Planning Commission shall consider and apply the Town's special features, landscape patterns, natural resources and the relationship of land use and road access in rendering its decisions.

Character of the Land:

All land to be subdivided shall be, in the judgement of the Planning Commission, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas or characterized by poor drainage or steep slopes, or subject to other hazardous conditions shall not ordinarily be subdivided.

Lot Layout/Siting:

The layout of lots and the siting of structures shall conform to the requirements of the Zoning Regulations and shall be appropriate for the intended construction. Consideration in lot layout and siting shall be given to aesthetics, and topographic and soil conditions.

Preservation of Existing Features:

Due regard shall be given to the preservation and protection of existing features such as, but not limited to, trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, other natural resources, wildlife habitat, historic resources, prime agricultural soils, and open meadowland. Specifically, the following areas shall be treated as follows:

1. Wetlands: Wetlands, as identified and defined by the State of Vermont, shall not be drained, filled or altered to accommodate subdivision. Proposals for the subdivision of a lot involving or adjacent to an identified wetland shall provide for adequate setbacks of roads, buildings, structures and sewage systems from the wetland. Adequate setbacks shall be no less than 100 feet, but may be increased by the Planning Commission accordingly to protect the following wetland values:
 - a. water quality control
 - b. groundwater supply
 - c. flood and erosion control
 - d. flora and fauna
 - e. education and recreation

This provision shall not apply to the use of such areas for the growing of food or crops in connection with farming activities.

2. Deeryard: Subdivision immediately adjacent to a deeryard identified and mapped by the State of Vermont shall be designed, sited and undertaken in a manner compatible with the continued viability of the deeryard. Subdivision within a deeryard boundary shall be permitted only where the Planning Commission makes the following findings:

- a. The parcel to be subdivided includes no land that is practical for subdivision, except that which is deeryard; and
- b. The subdivision can be designed and undertaken in a manner that minimizes the impact of the subdivision on the continued viability of the deeryard.

Proposals for subdivision of a lot involving or adjacent to an identified deeryard shall be based upon consultation with representatives of the Vermont Department of Fish and Wildlife and shall provide evidence of such consultation.

Where subdivision takes place within a deeryard or includes part or all of a deeryard in the land base for the subdivision or the determination of its density, the remainder of the deeryard owned by the applicant shall be managed in a manner compatible with the continued viability of the deeryard. This may include the preparation and implementation of a forest management plan approved by the Vermont Department of Fish and Wildlife.

3. Aquifer Recharge Areas: Subdivision in an Aquifer Recharge Area shall not result in the pollution of ground or surface waters or an unreasonable reduction of the supply of groundwater. The Planning Commission shall consider such factors as the amount and type of wastes to be generated by the proposed use and the adequacy of design for the proposed disposal system and the capability of the land and water to sustain such use without degradation. In considering an application, the Planning Commission may consult with the Vermont Department of Water Resources for assistance or require certification by a registered professional engineer that the project will not result in degradation.

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

5. Meadowland: Subdivision of meadowlands shall be permitted only where the Planning Commission makes the following findings:

- a. The subdivision:
 - (1) minimizes the disruption of the scenic quality of the site;

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- (2) retains the maximum possible meadowland for agricultural use through such means as clustering under PRD provisions, reduction in allowable density, sale or donation of development rights; and
 - (3) maximizes the use of the least productive land and the protection of primary agricultural soils.
- b. The subdivision shall not conflict with existing or potentially viable agricultural uses in the area.
6. Forest Resource Land: Preservation of the productivity of forest land and the economic viability of the industry are matters of public good. Subdivision which significantly prohibits the management or use of forest resources should only be permitted when the public interest is clearly benefitted thereby.

Subdivision of forest resource areas shall be permitted only where the Planning Commission makes the following findings:

- a. the subdivision will not significantly reduce the potential of the resource for forestry;
or
- b. the applicant has demonstrated that the subdivision has been planned to minimize the loss of forestry potential by providing for reasonable population densities, lot sizes, rates of growth, and the use of cluster planning and new community planning designed to economize on the costs of roads, utilities, and land usage.

Energy Conservation:

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

Section 2: Roads

Layout:

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

Traffic Management:

If, in the judgement of the Planning Commission, a proposed subdivision presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required.

The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the

applicant, prepared by a qualified registered professional engineer or transportation planner, who shall be selected jointly by the applicant and the Planning Commission. Such studies shall include:

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

Based upon a review of the study, the Planning Commission shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

Location and Design of Intersections:

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

Minimum Stopping Sight Distance

| Design Speed of Roadway Section (MPH) | Sight Stopping Distance (Feet) |
|---|--------------------------------------|
| 30 | 176 |
| 40 | 263 |
| 50 | 369 |

The Planning Commission may restrict the frequency of access or impose special intersection design requirements along all Town highways.

Design Standards for Town Roads:

All highways proposed for acceptance by the Town shall comply with A-76, State of Vermont Design Standards and any revisions made thereto, as adopted by the Selectmen.

Cul de Sacs:

All dead end roads in excess of 800 feet in length shall terminate in a turn around having a minimum inside radius of 30 feet and a travel lane width of 20 feet unless otherwise required for emergency vehicle access.

Road Maintenance:

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

Curb Cuts on Existing Roads:

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

| <u>Continuous Road Frontage of Parcel</u> | <u># of Curb Cuts Permitted</u> |
|---|---------------------------------|
| 0 - 799 feet | 2 |
| 800 - 1599 feet | 3 |
| Each additional 800 feet | 1 additional curb cut |

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

Section 3: Parking

Parking requirements shall be as established in the Town's Zoning Regulations. However, the Planning Commission may require additional parking if, in its judgement, more parking is needed to accommodate the proposed development.

Section 4: Pedestrian Access

The Planning Commission may require right of way to facilitate pedestrian circulation within the subdivision and to insure public access through the property to adjoining properties or uses.

Section 5: Power and Telephone

The Planning Commission may require the underground installation of power and telephone lines, wherever it is duly necessary to maintain and protect the visual character of a highly sensitive area. A diagram showing location of utility lines shall be submitted with the as-built drawings (Article V, Section 3).

Section 6: Drainage and Erosion Control

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

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

For the purposes of calculating the amount of surface runoff, a minimum 25 year storm precipitation factor shall be used.

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

Section 7: Fire Protection

The Planning Commission may require the provision of facilities necessary for adequate fire protection. Such facilities shall be designed in consultation with the appropriate local fire department.

Section 8: Lighting

The Planning Commission may require adequate lighting to protect the safety of pedestrians and motorists.

The Planning Commission may prohibit lighting that illuminates other properties or produces a glare or visual disturbance.

The Planning Commission may require language in subsequent, related property transactions that will accomplish the intent of this Section.

Section 9: Signs

The Planning Commission may place more restrictive conditions regarding the size, height, location and number of signs than those specified in the Zoning Regulations or by State Regulations in order to maintain the visual character of the area and to insure the safety and efficiency of pedestrian and vehicular circulation.

Section 10: Provision of Buffer Areas

The Planning Commission may require greater setbacks from property boundaries than specified in the Zoning Regulations in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation, proximity to scenic highways, heightened visibility due to differences in elevation, concentration of uses on the site, as permitted by PUD and cluster provisions of the Zoning

Regulations, and incompatibility of adjacent uses or other aesthetic considerations. The Planning Commission may request that the subdivider coordinate buffer zones on his parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

Section 11: Site Preservation and Improvements

Natural Cover:

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

Shade Trees:

The Planning Commission may require that suitable hardwood shade trees be established in areas where trees do not exist. The Planning Commission shall determine the minimum acceptable size of trees.

Excavation and Grading:

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

Section 12: Disclosure of Subsequent Development Plans

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

ARTICLE V. GENERAL CONDITIONS

Section 1: Fees

Upon submission of an application for minor subdivision approval or major subdivision preliminary plat approval, the subdivider shall pay the application fee as established by the Board of Selectmen.

Section 2: Completion Date

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

Section 3: Completed Site Plan

Submittal of an "as built" plan shall be required prior to the use or occupancy of any major subdivision, and may be required by the Planning Commission for a minor subdivision. This plan shall be drawn to scale and shall indicate by dimensions, angles, and distances the location of all utilities, structures, roadways, easements and other improvements as constructed. As-built plans shall be submitted by the subdivider to the Administrative Officer on a permanent recordable print(s) 18" x 24" size.

Section 4: Revision of Approved Plat

No changes, modifications or revisions that alter the conditions attached to a Subdivision Permit shall be made unless the plat is first resubmitted to the Planning Commission and the Planning Commission approves such modifications after public hearing.

In the event that such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

Section 5: Public Acceptance of Roads and Open Spaces

Nothing in these Regulations shall be construed to constitute the acceptance by the Town of any road, easement, utilities, park recreation area or other open space shown on the Final Subdivision Plan. The Planning Commission may require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title, dedication and provision of the cost of grading, development, equipment and maintenance of any such improvements, or may require of an applicant an agreement to waive any future rights to petition the Town to have roadways within the subdivision accepted as public streets. The Planning Commission may require the filing of a written agreement between the applicant and the Board of Selectmen waiving any existing or future claim by the applicant and/or its heirs, successors and assigns, regarding the Town's obligation to accept any road or other improvement as a Town facility as shown on the Final Subdivision Plan and providing for the future grading, development, equipment, repair and maintenance of any such road or other improvement by the applicant and/or its heirs, successors and assigns.

Consistent with the objectives of the Town Plan, and in accordance with 10 V.S.A., Chapter 155, the Town may accept less than fee interest in property to protect its open, scenic or resource value. Donation of such a conservation easement to a qualified non-profit organization may also serve as a means of meeting Town Plan

objectives. In either case, written agreements between the parties shall be required.

Section 6: Compliance With Other Bylaws

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

Section 7: Performance Bond Requirements

The Planning Commission may require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvements that the Planning Commission may require in approving the project; such performance bond to be submitted prior to Final Plan approval.

Security that the project shall be completed, as approved, may be required in the form of:

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

The performance guarantee shall not be released until the Planning Commission has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The performance bond shall run for a term to be fixed by the Planning Commission, but in no case for a longer term than 3 years. However, the term of such bond may, with the consent of the owner, be extended for an additional period not to exceed 3 years.

If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the municipality and upon receipt of the proceeds thereof, the municipality shall install or maintain such improvements as are covered by such performance bond.

The Planning Commission may also require surety covering the maintenance of said improvements for a period of 2 years after acceptance by the Town; said surety to be equal to not less than 10 percent of the estimated cost of those improvements.

Section 8: Legal Data

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

- a. An agreement to convey to the Town, land to be used for roads, open space and other public purposes;

- b. An agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claims regarding the Town's obligation to accept said improvements as Town facilities;
- c. Descriptions of easements and rights of way over property to remain in private ownership; and
- d. Descriptions of easements to drain onto or across other property.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

Section 1: Appeals, Enforcement, Penalties and Amendments

The procedures and conditions for appeals, enforcement, penalties and amendments shall be in accordance with the provisions of the Act, Sections 4444, 4445, and 4475, as presently enacted or, as from time to time hereinafter, amended.

Section 2: Saving Provision

These Regulations shall not be construed as abating any action now pending under pre-existing bylaws.

Section 3: Severability

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

Section 4: Effective Date

These Regulations shall take effect after adoption by Town pursuant to 24 V.S.A., Sections 4403 and 4404.

ARTICLE VII. DEFINITIONS

Words and phrases contained herein shall have the following interpretations for the purpose of these Regulations. Other words and phrases contained herein and not defined below shall be interpreted according to the definitions provided in the Act and the Town of Fairlee Town Plan and Zoning Regulations.

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

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

Approval: The form of approval shall be a written resolution prepared by the Planning Commission and attached to the subdivision application, or in the event that the Planning Commission should fail to act within the 45 day time limit specified in Article II, Section 3 of these Regulations, certification of such failure to act by the Town Clerk, and recording of the approved application and subdivision plan with the Town Clerk, in accordance with the conditions set forth in Article II, Section 3 of these Regulations.

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

Commercial Use: The provision of facilities, goods or services by a person to others in exchange for payment of a purchase price, fee, contribution, donation or other object having value.

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

Community Water System: Any water system owned by the same person that supplies water for domestic, commercial, industrial, or institutional uses to two or more customers or users.

Construction: The undertaking of the first improvement on a tract of land, including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in anyway incidental to the altering of land according to a plan or intention to improve or to divide land by sale, lease, partition or otherwise transfer an interest in the land. Activities which are principally for the preparation of plans and specifications that may be required and necessary for making application for a permit such as test wells and pits, percolation tests and line of sight clearing for surveys are not commencement of construction.

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

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

Development: The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any

building or other structure, or land, or extension of use of land.

Disapproval: The form of disapproval is by a written resolution by the Planning Commission and attached to the subdivision application, and a recording of the disapproved application and plan with the Town Clerk, in accordance with the conditions set forth in Article II, Section 3 of these Regulations.

Flood Hazard Area: Those lands subject to flooding from the 100 year flood, as defined in the existing or subsequently revised "Flood Insurance Study for the Town of Fairlee, Vermont", and the "Flood Insurance Rate Map" (FIRM), published by the Federal Emergency Management Agency (FEMA), and available at the Town Clerk's office.

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

Lot: A portion of land in a subdivision or plat that is separated from other portions of land by a property line.

Lot Area: The total surveyed land area within the boundaries of a lot, exclusive of any land area designated for a public road as measured to the boundary of such right of way or easement.

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

Minor Subdivision: Any residential subdivision containing two or more but less than four lots that does not qualify as a major subdivision.

Open Space: Land not occupied by structures, buildings, roads, rights of way, recreational facilities and parking lots.

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

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

Plat: A map or representation on paper or mylar of a piece of land subdivided into lots and roads, drawn to scale.

Public Improvement: Any improvement which shall be owned or maintained by the Town of Fairlee.

Road: A highway, street or other way which exists for vehicular travel, exclusive of a driveway serving not more than two single family residential uses or lots. The word "road" shall mean the entire right of way.

Subdivider: Any person who shall lay out for the purpose of transfer of ownership or right to use any

subdivision or part thereof. The term shall include an applicant for subdivision approval.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, tracts or parcels or other divisions of land. For the purposes of this regulation, see definitions of major and minor subdivisions.

