

ARTICLE VI SUBDIVISIONS

§6.1 SUBDIVISION APPROVAL PROCEDURES

Minor Subdivision Application Procedures: (three or fewer lots, characterized by lot counts below the trigger for Act 250 permitting, that lack complicated site conditions and involve relatively simple access and easement arrangements).

Sketch Plan Phase (discussion): Initial meeting with Development Review Board (DRB) and classification of project.

Within 180 days after initial sketch plan discussion: final plan/plat submission for public hearing.

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

Within 45 days after adjournment of the Public Hearing: Notice of Decision issued by DRB.

Within 180 days after DRB approval: Plat recording mylar is delivered to the Zoning Administrator.

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

Major Subdivision Application Procedures: (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).

Sketch Plan Phase (hearing): Initial public hearing with Development Review Board (DRB) and classification of project.

Within 180 days after initial public hearing: Preliminary Plan Application.

Within 45 days after preliminary plan application: second Public Hearing.

Within 180 days after preliminary plan approval: Final Plan Application.

Within 30 days after final 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: Notice of Decision by the DRB.

Within 180 days after DRB approval: Plat recording mylar is delivered to the Zoning Administrator.

On completion: submission of as-built drawings, if applicable per §6.4.2.

§6.1.1 Sketch Plan Phase

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

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

§6.1.2 Preliminary Approval

The preliminary approval takes place in a warned public hearing conducted per public hearing procedures as specified in §5.7. The purpose of the preliminary approval is to ensure issues discussed in the sketch plan phase have been addressed, other state and local permits which may be required are in process or have been obtained, and identify other deficiencies to be addressed for final approval. At the conclusion of the preliminary approval hearing, the DRB may:

- A. Recess the hearing to a date certain to generate further information or plat elements;
- B. Refer the application to a final approval hearing.

§6.1.3 Final Approval

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

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

§6.1.4 Plat Signing

The plat mylar shall be submitted within 180 days of approval by the Development Review Board. Before a plat mylar is recorded, it shall be inspected by the DRB to ensure it complies with the final approval map. The mylar shall be 24"x18" in dimension. This plat mylar shall then be stamped with an ink stamp provided for this purpose and signed by two members of the DRB, certifying compliance with the final approval. The plat mylar must be submitted within 180 days of the close of the final approval hearing or the approval is void per VSA T.24§4418.

§6.2 PLAT SUBMISSION REQUIREMENTS

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

§6.2.1 General Requirements

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

- A. The submittal shall be made in three copies.
- B. Maps shall be at a scale per table 1, include boundaries of the subdivision parcel(s), date, true north point, and scale.

Distance on map in inches	feet on Ground	Scale
1	200	1:2400
1	400	1:4800
1	1000	1:12000
1	2000	1:24000

- C. A completed subdivision permit application form obtainable from the Zoning Administrator or available on the Fairlee town website.
- D. All supplemental information requested by the DRB from the sketch plan (discussion) phase.
- E. 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.
- F. Description of the proposed sewage disposal system(s). If on-site sewage disposal is proposed, 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. 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 man made improvements.
- H. A description of any proposed covenants and/or deed restrictions which are intended to cover all or part of the subdivision.
- I. A description of the homeowners association or other forms of management organization, if one is proposed.
- J. Lots should be of ordinary shape and compact layout unless a compelling public interest or site feature can be identified that dictates otherwise.

§6.2.2 Additional Requirements for Boundary Adjustments and Annexations

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

§6.2.3 Classification Trigger for Major Subdivision Application

Any subdivision of land requiring an Environmental Board Act 250 Land Use Permit shall be treated under this Article as a major subdivision subject to sketch plan and hearings. Major subdivisions are subject to the requirements listed above and the increased requirements as listed in §6.3.

§6.2.4 Suitability Restrictions

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

§6.3 MAJOR SUBDIVISION DESIGN REQUIREMENTS AND PERFORMANCE STANDARDS

§6.3.1 Lot Layout/Siting

The layout of lots and the siting of structures shall conform to the requirements of the 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.

- A. 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, forest blocks, wildlife habitat connectors and corridors, historic resources, prime agricultural soils, and open meadowland per T.24 VSA Chapter 117. Specifically, the following areas shall be treated as follows:
 - 1) Wetlands, as identified and defined by the State of Vermont, shall not be drained, filled or altered to accommodate 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 Development Review Board 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
 - 2) Subdivision immediately adjacent to a deeryard, forest blocks, wildlife habitat connectors and corridors identified and mapped by the State of Vermont shall be designed, sited and undertaken in a manner compatible with the continued viability of the protected areas.

Subdivision within a protected area boundary shall be permitted only where the Development Review Board makes the following findings:

- a. the parcel to be subdivided includes no land that is practical for subdivision except that which is in the protected area as stated above; 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 protected area as stated above.

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

- 3) 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 Development Review Board 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 DRB 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) Subdivision of meadowlands shall be permitted only where the Development Review Board makes the following findings, the subdivision:
 - a. minimizes the disruption of the scenic quality of the site;
 - b. retains the maximum possible meadowland for agricultural use through such means as clustering under PRD provisions, reduction in allowable density, sale, or donation of development rights;
 - c. maximizes the use of the least productive land and the protection of primary agricultural soils;
 - d. shall not conflict with existing or potentially viable agricultural uses in the area.

B. 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 Development Review Board makes the following findings.

- 1) The subdivision will not significantly reduce the potential of the resource for forestry.
- 2) 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.

- C. 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 Development Review Board 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 DRB may guide the location of structure(s) by varying setbacks, height and other requirements of the district and may restrict or require landscaping or screening measures.
- D. Energy conservation and energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

§6.3.2 Roads

- A. Layout: All roadways and intersections shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to the topography 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.
- B. Traffic Management: If, in the judgement of the Development Review Board a proposed subdivision presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the applicant, prepared by a qualified transportation planner or registered professional engineer selected jointly by the applicant and the DRB.
- C. Such studies shall include:
 - 1) a description of the general location of the project;
 - 2) a statement of existing traffic conditions and projected traffic conditions in five (5) years;
 - 3) a statement comparing the operating Level of Service (LOS) of the roadways(s) and/or intersection(s) in the Town with and without the proposed project(s) 1) at the opening date of the project, and 2) in five (5) years;
 - 4) a statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to provide an acceptable operating Level of Service.

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

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

Table 2
Minimum Stopping Sight Distance

<u>Design Speed of Roadway Section (MPH)</u>	<u>Sight Stopping Distance (Feet)</u>
30	176
40	263
50	369

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

- E. 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 Road Commission.
- F. Cul de Sacs: All dead end roads in excess of 800 feet in length shall terminate in a turn around having a minimum outside radius of 50 feet and a travel lane width of 20 feet unless otherwise required for emergency vehicle access.
- G. Road Maintenance: The maintenance of all roads, not designated as Class 3 Town Highways or higher, shall be the responsibility of the subdivider. The subdivider shall supply evidence and assurance that said roads will be adequately maintained either by the subdivider or by an owners' association.
- H. 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 per Table 3:

Table 3

<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.

§6.3.3 Parking

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

§6.3.4 Pedestrian Access

The Development Review Board shall require right of way to facilitate pedestrian circulation within the subdivision and to ensure public access through the property to adjoining properties or uses.

§6.3.5 Power and Telecommunication Infrastructure

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

§6.3.6 Drainage and Erosion Control

- A. The Development Review Board shall require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff in compliance with Vermont Water Quality Standards. Factors to be considered in determining the types of controls necessary shall include vegetation and ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams, and impact on adjacent properties.
- B. The Development Review Board may require the phasing of construction to reduce the amount of land disturbed by construction at any one time, and may stipulate deadlines for the installation of erosion control or soil stabilization measures.
- C. For the purposes of calculating the amount of surface runoff, a minimum 100 year storm precipitation factor shall be used.
- D. The Development Review Board shall require determination of the effect of the subdivision on the existing downstream drainage capacity outside of the area of the subdivision. Where the DRB anticipates that the increased runoff will overload the capacity of the downstream system, it may request the subdivider to delay construction until capacities are adequate, and may request the subdivider to assist in the capacity improvements deemed necessary.

§6.3.7 Fire Protection

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

§6.3.8 Provision of Buffer Areas

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

§6.3.9 Site Preservation and Improvements

- A. Natural Cover: Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil.
- B. Shade Trees: The Development Review Board may require that suitable hardwood shade trees be established in areas where trees do not exist. The DRB shall determine the minimum acceptable size of trees.
- C. Excavation and Grading: The Development Review Board shall require a program of landscaping, soil stabilization and the establishment of appropriate, permanent vegetative cover following excavation or grading. The DRB may also require embankments to be planted with a stabilizing shrub or groundcover to prevent erosion.

§6.3.10 Disclosure of Subsequent Development Plans

Whenever a subdivider submits a proposal for development on only a portion of a contiguous parcel, the Development Review Board may require a general indication of the intended uses of the remaining portion of land during the sketch plan phase. Such an indication should include access, type of use, intensity of use, and phasing.

§6.4 GENERAL CONDITIONS

§6.4.1 Completion Date

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

§6.4.2 Completed Site Plan

Submittal of an "as built" plan shall be required prior to the use or occupancy of any major subdivision, and may be required by the Development Review Board 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 mylar of 18" x 24" size.

§6.4.3 Revision of Approved Plat

No changes, modifications or revisions that alter the conditions attached to a Subdivision Permit shall be made unless the plat is first resubmitted to, and the Development Review Board 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.

§6.4.4 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 Development Review Board 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 DRB 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.

§6.4.5 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.

§6.4.6 Performance Bond Requirements

The Development Review Board may require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvements that the DRB may require in approving the project; such performance bond 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 DRB has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The performance bond shall run for a term to be fixed by the DRB, but in no case for a longer term than 3 years. However, the term of such bond may, with the consent of the owner, be extended for an additional period not to exceed 3 years. If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the municipality and upon receipt of the proceeds thereof, the municipality shall install or maintain such improvements as are covered by such performance bond. The DRB may also require surety covering the maintenance of said improvements for a period of 2 years after acceptance by the Town; said surety to be equal to not less than 10 percent of the estimated cost of those improvements.

§6.4.7 Legal Data

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

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