

**TOWN OF FAIRFAX
DEVELOPMENT REVIEW
BOARD PROCEDURAL RULES
Adopted February 27, 2024**

Pursuant to 24 V.S.A. §4460, the Town of Fairfax has established a Development Review Board to perform with the assistance of the Zoning Administrator all review functions under Chapter 117 of Title 24 Vermont Statutes Annotated and the Fairfax Development Regulations.

To govern the conduct of its business in conformance with state and local law in the fulfillment of the powers and duties, goals and principles set forth above, the Fairfax Development Review Board hereby adopts the following rules, hereinafter "Procedural Rules" pursuant to 24 V.S.A. §4461(a). If any rule set forth in these Procedural Rules is found to be in conflict with any provision of the Vermont Statutes Annotated, then such rule shall be deemed null and void and the statutory shall govern.

1.0 Meetings

- 1.1 Regular schedule.** The Development Review Board may meet on the second and fourth Tuesday of each month in regular session. If any regularly scheduled meeting falls on one of the holidays (New Years Day, Juneteenth, Independence Day, Veterans Day, Christmas Eve, Christmas Day, New Years Eve), the regular meeting shall be held on the next regularly scheduled meeting day. Unless the Board votes otherwise and provides notice as required by law, regular meetings will not be held on the fourth Tuesday of November and December.
- 1.2 Organizational Meeting.** Annually, at the first meeting in April, the Board shall elect officers and review or amend these Procedural Rules.
- 1.3 Special Meetings.** The Development Review Board shall meet in special session at the call of the Development Review Board Chairperson or upon written request of two members of the Development Review Board, or by majority vote at a regular meeting. Notice of special meetings shall comply with Title 1 V.S.A. §312(c). The Chair shall consult with and be advised by the Zoning Administrator regarding the need for special meetings.
- 1.4 Place of meeting.** Regularly scheduled meetings shall be held in the Fairfax Town Offices. To accommodate the public or in special circumstances, the Zoning Administrator, with the consent of the Development Review Board Chairperson, may choose an alternate meeting place. A notice of such change shall be prominently posted on the door of the regular meeting place. The Zoning Administrator shall also give notice of such change as required by Title 1 VSA

§312(c) and to all members.

- 1.5 Time of meetings.** Regularly scheduled meetings shall begin at 7:00 o'clock in the evening unless the Development Review Board, by majority vote of those present in session, shall set a different starting time. In the event of a change in the starting time of the meeting, notice thereof shall be given pursuant to 1 V.S.A. §312(c)(2). Matters on the agenda and not yet acted upon at the time of adjournment will be placed on the agenda of the next regular meeting or special meeting if one is called.
- 1.6 Attendance of meetings by Applicants.** The Applicant or their duly authorized representative shall be expected to attend all required meetings and hearings held under these procedural rules to review the application including any public meetings or hearings which are continued to a specific time and date. The Development Review Board may deny the application if neither the applicant nor a duly authorized representative attends any such public hearings or meetings.
- 1.7 Change in Regular Schedule.** Changes in the regular schedule shall not be made except upon the approval of a majority vote of those Development Review Board members present in session. In the event the Development Review Board shall meet and a quorum is not present, the Development Review Board, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice is given to members and persons appearing.

2.0 Notice

- 2.1 Public Notice of meetings.** The Zoning Administrator will be responsible for providing proper notice in accordance with 1 V.S.A. §312, as amended, for all meetings of the Development Review Board. Such notification shall include but not necessarily be limited to the following:
 - 2.1 Notification to Media and Others.** Public notice shall be provided in accordance with Title 1 V.S.A. Chapter 5 and where applicable Title 24 V.S.A. §4464(a)(1) and (2).

3.0 Quorum; Attendance.

- 3.1 Officers; Quorum; Action.** As of the date of the adoption of these Procedural Rules, the Fairfax Selectboard has established a Development Review Board comprised of five seats and a youth member. The Selectboard may also appoint up to two Board alternates. Officers shall include a Chair, Vice-Chair, and Clerk. Alternates and the youth member shall not be eligible to serve as an officer. Attendance by a majority of the total number of seats on the Board,

excepting the youth member, shall constitute a quorum for the transaction of business at all meetings. As required pursuant to 1 V.S.A. §172, action on any matter before the Board shall require the vote of a majority of the total number of the seats on the Board excepting the youth member,

- 3.2 Attendance.** Each member of the Development Review Board is expected to attend each meeting of the Board. In the event a member cannot attend a meeting, she or he, in advance of the meeting, shall notify the Zoning Administrator and the Chairman of the upcoming absence and the reason therefore. A member's absence shall be reflected in the minutes as an excused or unexcused absence. In the event a member is absent without acceptable reasons from three (3) consecutive regular meetings or absent for any reason for five (5) meetings in a twelve (12) month period, the Board by majority vote may request the Selectboard to remove said member.

4.0 Agendas

- 4.1 Regular Meeting Agendas.** The Zoning Administrator will prepare the agenda of business for all regularly scheduled Development Review Board meetings. No item will be scheduled before all necessary information has been deemed complete by the Zoning Administrator. Any Development Review Board member or representative of any township committees, boards, or commissions, or any citizens, or developers desiring to place a matter on the agenda shall notify the Zoning Administrator of such item by 12:00 p.m. on the Monday the week preceding the next regular meeting. Timely submittal shall be a prerequisite, but not a guarantee of receiving a position on the next agenda.
- 4.2 Distribution of agenda and materials.** Upon completion of the agenda the Zoning Administrator will make available for members of the Board, the agenda together with reports, explanations, etc., that relate to the business matters coming to the Development Review Board. The Zoning Administrator will make such materials available digitally and at the Town Offices at least forty-eight (48) hours prior to the meeting or, at the request of a majority of the Development Review Board members, the agenda item will not be considered.

5.0 Conduct of Board Members

- 5.1 Chairperson.** The Chair of the Development Review Board shall moderate and preside over all meetings of the Development Review Board. In the absence of the Chair, the Vice-Chair shall assume the duties of the Chair. In the absence of the Chair and Vice-Chair, the Clerk shall serve as Chair. In the absence of the Chair, Vice-Chair, and Clerk, a member of the Board shall call

the meeting to order and the first item of business shall be the selection, by majority vote, of an Acting Chair for the meeting.

All persons at the meeting shall not speak unless recognized by the Chair. The Chair shall conduct business items in the following manner:

- A. Introduction of all parties present.
- B. Open the business item by reading the warning of the hearing or agenda item.
- C. All members of the public present at a hearing will be provided with written information explaining interested person status as defined by 24 V.S.A. §4465(b). Everyone wishing to participate must sign in on the Interested Persons Record List indicating whether they are requesting interested person status and the basis for the request.
- D. Direct the application or their representative and all interested persons to take the following oath: "I hereby swear that the evidence and testimony I give is truthful".
- E. Invite the application or their representative to present the application.
- F. Invite Board members to ask questions of the applicant or their representative.
- G. Invite interested persons to present information regarding the application. Testimony from interested persons will be limited to ten minutes per person. The DRB may, by majority vote, allow additional time.
- H. Invite the applicant or applicant's representative to respond to information presented.
- I. Invite interested persons or members of the public to ask any follow up questions with time limited to three minutes. In the event the Chair concludes that a person's testimony is immaterial, irrelevant, cumulative, repetitive, or inappropriate, the Chair shall so indicate and direct the person to modify or end the testimony.
- J. Entertain a motion to close the hearing or adjourn the matter to a time certain.

5.2 Disorderly conduct at meetings. The Chair may call to order any person who is being disorderly by speaking or otherwise disrupting the proceedings, by failing to be germane, by speaking longer than the allotted time, or by speaking vulgarities. Such person shall thereupon be seated until the Chair shall have determined whether the person is in order. If there is a potential or apparent breach of the peace the Chair shall request the police to be present and take appropriate action. No person shall be removed, or excluded from a public meeting except for an actual breach of the peace committed at the meeting.

5.3 "Ex Parte" Communications. With respect to any matter before the Board, a member shall not communicate with or accept a communication from a person where the member has reasonable grounds to believe the person is a party to the matter and the communication is related, directly or indirectly, to that matter. A member shall disclose any such communication at an open

meeting of the Board prior to any consideration on that matter.

- 5.4 Conflicts of Interest.** "Conflict of Interest" is defined in the Fairfax Conflicts of Interest and Ethical Conduct Policy as amended from time to time. All members of the Board shall abide by this policy. If the Board takes an official action and such member who is required to disclose, fails to do so; or after disclosing, participates in consideration of the matter or vote; and if such official action would not have been taken without the vote of that member, then the chair or vice-chair shall immediately refer the member who failed to disclose or recuse to the Selectboard for appropriate action.
- 5.5 Interested Persons.** The Board shall provide an opportunity for each person wishing to achieve status as an interested person under subsection 24 V.S.A. §4465(b) to identify themselves and demonstrate the reason(s) why they are requesting interested person status. Interested persons should participate in the hearing and offer, through oral or written testimony, evidence or a statement of concern regarding the project before the Board. The Board will then make a decision in deliberative session on whether to grant or deny interested person status. The Board shall keep a written record of the name, address, and participation of each person granted or denied party status.
- 5.6 Representations of Board Members Regarding Membership Status.** It shall be the duty of the members of the Board to ensure the integrity of Board proceedings, and to ensure the appearance of propriety is preserved. No member of the Board shall sign her or his name to any document that indicates the signer is a member of the Board, unless the document is a decision of the Board or other official document issued by the Board in the furtherance of its duties under Vermont law. Any member of the Board is hereby authorized to refer a violation of this provision to the Selectboard for appropriate action.
- 5.7 Youth Member.** The youth member shall serve as a non-voting member. The youth member shall be mentored by staff and at least one other Board Member. The youth member is encouraged and expected to participate in all proceedings of the Board including deliberative session however shall not vote.

6.0 Record of meetings.

- 6.1 Minutes.** The Zoning Administrator or other person assigned by the Board will be responsible for maintaining the official record and minutes of each meeting of the Development Review Board. The minutes shall include all topics and motions of the Development Review Board and shall otherwise comply with 1 V.S.A., Section 312(b).

Except upon the unanimous vote of the Development Review Board, no minutes shall be taken for deliberative sessions and only the final vote of each member

in the Development Review Board's written decision shall be recorded. With respect to recordkeeping, the Zoning Administrator will assume those duties and responsibilities placed upon the Board by 1 V.S.A. Chapter 5, Subchapters 2 and 3.

6.2 Record of discussion. The Zoning Administrator shall not be responsible for maintaining a written record or summary written record of the discussion or comments of the Development Review Board members nor of comments made by members of the public. The Zoning Administrator, however, shall make an electronic recording of each entire meeting of the Development Review Board (excluding deliberative sessions) and shall maintain said recording for at least 6 months following the date of the meeting. Thereafter, the recording may be erased unless the recording shall be pertinent to any legal proceedings then underway, pending, or expected.

6.3 Public access to meeting records. Town staff shall make available to members of the public the records and minutes of Development Review Board meetings in accordance with 1 V.S.A., Chapter 5, Subchapters 2 and 3.

7.0 Deliberative Session

7.1 Quasi-judicial Decisions. In deliberating and rendering its decision on any application before it, the Development Review Board shall meet in deliberative, non-public session as allowed pursuant to Title 1, Vermont Statutes Annotated, Section 312(e) and (f). Deliberative sessions are not executive sessions. Only by majority vote, may the Development Review Board waive the use of the deliberative session in rendering a decision on any application.

8.0 Motions and resolutions

8.1. Statement by Chair, written motions, and resolutions. A motion or resolution may be offered by any member of the Development Review Board. All motions must be seconded prior to discussion or consideration. Upon request, a motion or resolution shall be restated before being considered for adoption. All motions except procedural motions and resolutions may be required to be in writing upon the demand of any member. A request to recess for the purpose of writing out a motion or resolution shall be in order. Each written motion or resolution in writing shall be read by the Chair before the commencement of debate.

8.2 Motion to Reconsider. A motion to reconsider enables a majority of the Development Review Board, within a limited time and without notice, to bring back for further consideration action previously taken by the Board. The

purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the vote. To provide both usefulness and protection against abuse, the motion to Reconsider has the following unique characteristics: 1. It can only be made by a Development Review Board member who voted with the prevailing side. 2. No question shall be reconsidered more than once. 3. Reconsideration shall be moved only on the same or the next succeeding regular meeting after the original vote.

9.0 Actions

- 9.1 Voting.** Whenever a question is put by the Chair, every member present shall vote or abstain on all questions decided by the Development Review Board. A vote to abstain shall be considered a vote for the prevailing majority.
- 9.2 Non-signature documents or acts.** All forms of action not requiring the signature of the Development Review Board shall nevertheless require a vote by a majority of the total number of the seats on the Development Review Board in order to be effective.

10.0 Introduction and consideration of Procedural Rules

10.1. Introduction; Review by town attorney. Any Development Review Board member may place on the Board's agenda, as per Section 4 of these rules, consideration of a change to these procedural rules. Before final approval and adoption, each proposed Procedural Rule shall be reviewed by the Zoning Administrator who may also request the review of the town's attorney.

11.0 Waiver. Except where otherwise mandated by law, the Board, by majority vote, may waive or alter the application of any provision of these Procedural Rules.

DATED at Fairfax County of Franklin, this 27th day of February 2024.

Fairfax Development Review Board






