

**TOWN OF BARTON**  
**NOTICE OF PUBLIC HEARING**

Notice is hereby given to the residents of the Town of Barton, Village of Barton, and Village of Orleans that the Barton Planning Commission will hold a public hearing in the **Barton Memorial Building on Tuesday, April 26<sup>th</sup>, at 6:00 p.m.** and a public hearing in the **Orleans Municipal Building on Wednesday, April 27<sup>th</sup>, at 6:00 p.m.** These hearings will be held for public review of and comment on the proposed Barton Town Plan and Joint Zoning Bylaw for the Town and Villages, pursuant to Title 24 VSA, Chapter 117.

The purpose of the proposed Barton Town Plan is to establish a coordinated, comprehensive planning process to guide decisions made by the Town, and the purpose of the Joint Zoning Bylaw is to implement the goals of the town plan. The proposed Barton Town Plan and the Joint Zoning Bylaw, if and when adopted, will affect all lands within the Town of Barton, including the Villages of Barton and Orleans.

**2016 BARTON MUNICIPAL DEVELOPMENT PLAN**

General Goals and Objectives of the Plan	<u>Maps:</u>
Land Use	Base Map
Natural, Public, Scenic, & Historic Resources	Land Cover
Transportation Plan	Natural Resource Constraints
Community Facilities, Utilities, & Services	Village Center(s)
Housing Statement & Population Data	Ortho-photo
Statement of Impact on Surrounding Town Plans & the Regional Plan	Soils
Economic Development	
Flood Resiliency	
Municipal Development Plan Implementation	

**JOINT ZONING BYLAW**

Article 1: Enactment and Intent  
Article 2: Establishment of Districts and Regulations  
Article 3: General Provisions  
Article 4: Non-conformities  
Article 5: Definitions  
Article 6: Administration and Enforcement  
Article 7: Amendments, Interpretation, and Effective Date  
Zoning Map(s):

Copies of the proposed Barton Town Plan and Joint Zoning Bylaw may be obtained from the offices of the Barton Town Clerk and the offices of the Village Clerk in Barton and Orleans. Dated in Barton, Vermont, March 14, 2016.

**TOWN OF BARTON PLANNING COMMISSION**

**2016 MUNICIPAL DEVELOPMENT PLAN**  
**FOR**  
**TOWN OF BARTON**  
**BARTON VILLAGE & ORLEANS**  
**VILLAGE**



**Planning Commission Hearings:**  
**February \_\_, 2016**  
**Select Board Hearing:**  
**March \_\_, 2016**  
**Town Vote: March \_\_\_\_, 2016**

Barton Municipal Development Plan  
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Appendix: Required Maps: (Attachments)

\*This document and the associated planning maps were developed with the assistance of a Municipal Planning Grant award from the Vermont Agency of Commerce and Community Development.

## A. MUNICIPAL DEVELOPMENT PLAN

Town Planning should begin first by evaluating the specific and philosophical goals of the townspeople. This should include an overall assessment of what the residents wish the town and villages to “look” like 5 to 10 years from now. The MUNICIPAL DEVELOPMENT PLAN should attempt to address current development problems as well as plan for orderly growth to the economic and environmental benefit of all, and balancing any planning goals with the individual property rights of its citizens. It is critical that the planning effort address those issues which are of serious concern to the citizens of the town of Barton and to both incorporated villages within the town. Adopted regulations should further the goals of this Plan; be the minimum necessary to promote and protect the interests of the municipalities; and, should incorporate some degree of FLEXIBILITY so that all proposals may be considered on their own merits.

Planning is the basic art of deciding how to accommodate growth and development in a given location. Analyzing existing land use patterns is a good starting point. Present and planned uses should be compatible with each other and, in addition, those uses should be supported by existing topographic conditions, natural resource constraints, as well as necessary manmade utilities. An inventory and analysis of existing land use patterns, soils and their capabilities, topography, building and environmental conditions, transportation, community facilities, utilities and the economy is contained in this Plan.

The MUNICIPAL DEVELOPMENT PLAN discusses several different districts. Each district is described based on its’ historic and/or current land use and natural features. These districts should correspond to the land use districts identified in the Town’s Zoning Bylaw. The MUNICIPAL DEVELOPMENT PLAN should identify what the land use requirements will be in the future in that there must be sufficient land area in each district to support reasonable future projected populations.

The MUNICIPAL DEVELOPMENT PLAN also acts as a guide to the District Environmental Commission in the Act 250 process and the Public Service Board in its Section 248 process to ensure that state permits do not contradict the planning goals approved by the townspeople. Before the District Commission grants a permit, it must find that the proposed land development is in conformance with a duly adopted MUNICIPAL DEVELOPMENT PLAN as approved by the Town. The Municipal Development Plan is, therefore, a policy and “goals” document.

The actual document used in the implementing these “goals” is called the ZONING BYLAW. The Zoning Bylaw sets forth the specific rules for accomplishing and achieving the “goals” as defined in the MUNICIPAL DEVELOPMENT PLAN. The Zoning Bylaw may also incorporate “performance standards” to be utilized as an option where flexibility and latitude can promote the town “goals” more efficiently than the so-

called “standard requirements” of a district. Municipal SUBDIVISION REGULATIONS may be incorporated into the BYLAW to provide guidance for the division of land into multiple lots and parcels.

Finally, public education and awareness is essential for the success of any plan. The citizens of Barton have a vested interest in staying involved with the direction of land use planning and development for their town or village.

24 V.S.A., Chapter 117, Section 4382(a)(1) requires: “*A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services and facilities, and to protect the environment*”;

## B. GENERAL STATEMENT OF TOWN GOALS

The Town of Barton Planning Commission is comprised of members appointed by the Selectmen and charged with the duty of formulating a MUNICIPAL DEVELOPMENT PLAN and ZONING BYLAWS. The following basic goals are believed to represent the wishes of the majority of town’s residents.

### IT IS THE GOAL OF THE TOWN TO:

1. Promote compatible land uses within the various districts of town and to protect the value and integrity of existing land uses and natural resources including water bodies, significant wildlife and fish habitat; but with extra attention given to those structures and uses which by their nature may have an adverse negative impact on the scenic character of some of these areas.
2. Allow all reasonable land uses with minimal regulatory delay.
3. Maintain the current character of the town and villages, yet encourage the economic and cultural growth of the entire community.
4. Provide fair and equitable guidelines for promoting town goals and to treat all citizens equally in the administration of its by-laws.
5. Provide a mechanism for flexibility when strict compliance with adopted standards does not promote the overall goals of the town.

24 V.S.A., Chapter 117, Section 4382(2) requires: “*A land use plan, consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation*”

*purposes; and setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service”;*

### C. LAND USE

The Town of Barton reflects stream valley development of roads and railroads along the Barton River, Crystal Lake and southeasterly along the Willoughby Brook, which currently defines U.S. Highway 5 and the route of the Northern Vermont Railroad (formerly Canadian Pacific Railroad). Major topographic features which have historically limited development include the areas with steep slopes to the east along the northeastern shore of Crystal Lake. Barton Mountain, in the northern central area of the Town, and Stillwater Swamp, to the east of the mountain has also had an impact on how the land in Barton has been developed. Generally, the Town is characterized by rolling topography with numerous small streams draining through the area into the Barton and Willoughby Rivers.

Currently, agricultural land is spread out generally throughout the Town, although conversion of some farm land to residential uses has substantially increased over recent decades. The ongoing trend of dairy farm consolidation continues to decrease the number of farming units while at the same time average farm size has increased. The number of Farm parcels on the 2013 Grand List for the entire town of Barton was 20. Similarly, there are also 20 Woodland parcels in the Town.

Residential units are clustered in single, two and multi-family structures primarily within the two village areas. The vast majority of these units are of older construction varying in age between 50 to 150 years old. Single family residential units, interspersed with farming operations, are strung out along local town roads, State Highway 16 and U.S. Highway 5, with some of these units being seasonal in nature. The 2013 Grand List shows that there are 685 Residential-1 (dwelling and <6 acres) properties in Barton, primarily in the village areas, and 272 Residential-2 (dwelling and >6 acres) in the town and mainly outside of the village areas. There are also 133 Mobile homes in the community (78 with land and 55 without land), and 14 Commercial Apartment buildings.

Crystal Lake has been developed for recreational uses in the form of seasonal units along the north, eastern and western shores, a State and Village park to the north and recreational oriented accommodations, (year-round and seasonal) units along U.S. Highway 5. Current 2013 information on file with the Town of Barton Listers Office indicates that there are now approximately 134 vacation homes in the Town of Barton (86 with a dwelling and <6 acres, and 48 with dwelling and >6 acres).

Current Commerce and Industrial land uses are concentrated in the Barton and Orleans Village areas. The largest industry in this area is limited to Orleans Manufacturing, a division of Ethan Allen, Inc. The 2013 Grand List indicates that there were 77 Commercial properties, 4 Industrial properties, and 5 Utility properties in the

Town.

## LAND USE DISTRICTS (These correspond with local Zoning Districts)

### 1. 'NATURAL AREA'

This category includes land generally characterized by poor or limited road access, thin or poor soils, steep topographic conditions and remoteness from existing concentrated settlement. The development of lands in this category could cause undue damage to the environment by the extension of roads and public utilities necessary to serve the area. Further, the burden of road or public utility maintenance could become an undue expense to the owner, future owner, public utilities, and the town. For this reason, standard lot size in this district (10-acres or greater) will be larger than any other district. The remote district also includes a large majority of the towns' wildlife habitat, forestry and agricultural resources, source protection areas (i.e. wellheads), including headwaters of high quality streams and brooks. All of these natural resources are best preserved by minimal or limited development.

While the general development of land characterized by limitations as defined for "natural area" is discouraged, it is recognized that isolated areas may exist within this zoning district, which may be better suited for development than the balance of the property. The town encourages landowners to utilize these areas if the proposed development results in less environmental impact and utilities burden than what would result if the land were developed within the normal dimensional requirements of the district.

The suitability of these areas for development must be demonstrated by the landowner through meeting reasonable performance development standards for this district as reviewed through either conditional use review.

The "natural area" category includes most of the southern half of the Town around Crystal Lake, Wheeler Mountain, May Pond, and Barton Mountain. There are also natural area designations around Baker Pond and the Barton and Willoughby Rivers.

### 2. 'LOW DENSITY'

This area is designed for agriculture and forestry enterprises, low-density residential development, limited commercial development, and other non-intensive uses of the land. Low density areas are designated where dwelling units will be placed on lots of at least five (5) acres and will not be provided with municipal sewer or water in the foreseeable future. Development in this district will be buffered by existing trees and topography, so as to promote the current rural setting while at the same time providing an atmosphere of privacy within a reasonable distance to the central more populated areas of the Town.

The “Low Density” district is the largest category of land use in the Town. It includes most of the northern half of the Town between the villages.

### **3. ‘MEDIUM DENSITY’**

The designation of the “Medium Density” district hinges primarily upon current availability and the designation of feasible (future) extensions of sewer and water utilities and proximity to the existing villages of Barton and Orleans. The existing settlement patterns and the transportation networks support denser development in these areas.

The “Medium Density” district will contribute towards the growth of built up sections which have already been developed.

The areas proposed for this category are those in which Municipal sewer and water facilities are most feasible. Compact development is by far the most economical and efficient method for providing these municipal type services. Minimum lot sizes in this district range from 0.5 – 2.0 acres in size.

Lands in the “Medium Density” district are primarily limited to lands adjacent to the incorporated limits of Orleans Village and Barton Village as these areas are served by exiting municipal sewer and water, or the ability to extend services is reasonable. The district extends from each of the village centers, making access by walking or bicycling reasonable.

### **4. ‘HIGH DENSITY’**

The ‘High Density’ district is designed to be the location for the most intense levels of residential development in the Town. Again, this is primarily limited to the incorporated Village areas in keeping with the State’s goal of compact, dense villages surrounded by less-developed areas and working lands. It is contemplated that dense residential and limited commercial development will be located in these village areas. Sewer, water, and electric utilities are readily available and the central business district is nearby. The minimum lot size in this district is 7,000 sq. ft. or 0.167 acres.

### **5. ‘MIXED USE’**

Designated ‘Mixed Use’ areas are designated to provide for a reasonable level of commerce, employment, access to goods and services, and housing in the Town and Villages. Mixed Use areas are located within both villages, an area along Route 5 south of Barton Village, and along Route 16 from the I-91 interchange to the Glover town line. The minimum lot size in this district is 0.5 acres.

## **6. 'INDUSTRIAL'**

Industrial areas are designated in the Town based on existing settlement patterns, facilities and services. It is important that industry be located so as to optimize positive aesthetic effects and minimize negative impacts upon other land uses (e.g. residential or commercial uses). In permitting industrial uses, the benefit to the project area must be weighed against the effects industrial development can have upon the economic balance and character of the community.

There are existing industrial areas in and near Orleans Village. There should be no further industrial expansion northward within the Village limits because of the existing patterns of residential and commercial development. A continuation of the Industrial district is located south of Orleans Village along Route 5. Recently, there has been a new freight rail siding installed in this area for an agricultural enterprise, and the Town's recycling center is located here as well. The minimum lot size in this district is 1.0 acre.

The Orleans Industrial Park, located south and west of Route 5 is designated as an industrial area. The park is approximately 28 acres in size. Almost thirty years since its inception, only three established businesses have set up operations within the park. The vast majority of acreage available within the park (22.8 acres) remains vacant. It is generally believed that the park has good commercial potential since it borders upon, and has easy access to Interstate 91, and is within close proximity of an established state railway system which runs through Orleans Village. Since the park is located west of the center of the village, it is not contiguous with any residential concentrations within the village. Local officials and development organizations should increase their efforts to encourage the commercial development of this asset. In March 2013, the Orleans industrial park was designated as a Magnet Site for the region's official Foreign Trade Zone (FTZ) designation. Importing and manufacturing businesses that locate within the site may be eligible for reductions in customs fees, duties, and tariffs under FTZ regulations. Warehousing and distribution operations may receive FTZ benefits immediately upon setting up.

## **7. Shore Land Areas**

This district governs land uses around one of Barton's most valuable natural resources; its lakes and ponds. The depth of this district (250 ft. from the shoreline of lakes and ponds) is determined generally by the topography and existing land uses which tend to define the extent of shoreline related activity. For the continued enjoyment and use of these resources, by its' residents and the public, there is a vested interest in preserving water quality, essential for swimming, fishing and recreation, by preventing and eliminating pollution and by encouraging responsible and compatible development. Accomplishing this task requires a delicate balance between establishing standards for development and preserving the rights of individuals to make reasonable use of their property. It is recognized that both land values and property taxes have increased more dramatically in the shore land district around lakes than for properties in other districts.

Due to recently passed legislation, as of July 1, 2014, the development of all lots within 250 ft. of lakes and ponds larger than 10 acres in size is also subject to review and approval by the Vermont Agency of Natural Resources.

New lots created within the “shore land” areas shall comply with the required minimum basic dimensional standards of the underlying district and shall be sufficiently large to protect neighboring properties and general water quality to the extent possible.

Since July 1, 2007, all new subsurface wastewater disposal systems and replacements are subject to regulation by the Vermont Agency of Natural Resources. The Town does not intend to seek jurisdiction to regulate these facilities in the future.

Reasonable shoreline setbacks and vegetative buffers serve to create a protection between developed land and the shoreline or bank in order to provide better habitat for the fish, to trap sediment and nutrients before they reach the water, and to provide habitat and wildlife access to the shoreline. It is important to note that development along shore lands borders valuable natural public resources. Development requirements are sensitive to protecting a landowner’s right to use their property while at the same time balancing the environmental concerns of the public.

The shore land areas of Crystal Lake, May Pond, Wheeler Pond, and Baker Pond are included in the water bodies subject to regulation by the Vermont Agency of Natural Resources.

## **8. Floodplains**

Development in flood hazard areas may be regulated but not prohibited unless the development is to be located within the floodway itself. Unregulated development in these flood hazard areas can be hazardous and detrimental to all property owners in the floodplain. The Barton Zoning Bylaw contains flood hazard area regulations to comply with the Towns participation in the National Flood Insurance Program (NFIP) which is administered by the Federal Emergency Management Administration (FEMA). Owners of existing and proposed structures are eligible for federally subsidized flood insurance with the Towns participation. so that owners of existing and proposed structures are able to obtain flood insurance for their property under the National Flood Insurance Program. The current flood maps and flood insurance study were completed by the Federal Emergency Management Agency in 1992. Accurately documenting the development in and around the flood hazard areas is required important for participation in the National Flood Insurance Program. Additional discussion can be found in the Flood Resiliency section.

## 9. Wetlands

Wetlands are those lands where the water table is at or near the surface of the land or the land is actually covered by shallow water. To be defined as a wetland, and the area much have one or more of the following attributes: (1) at least periodically, the land supports significant vegetation or aquatic life which depends on saturated or seasonally saturated soils conditions for growth and reproduction; (2) the substrate is predominately un-drained hydric soil; and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year. Among other things, wetlands store floodwater which reduces flood levels, they purify water by breaking down nutrients and pollutants, they provide critical habitat for fish spawning and feeding, they provide habitat for ducks and other waterfowl, they provide habitat for mammals, amphibians and reptiles, they provide recreational and educational opportunity as well as contribute to the open spaces and general beauty of the landscape.

A number of wetland areas in the Town of Barton are on the national Wetlands Inventory Mapping. The Army Corps of Engineers has control over discharge of dredged or fill material into certain designated wetlands under their jurisdiction.

The Vermont Agency of Natural Resources has control of Class I and Class II wetlands including 100 and 50 ft., respectively, buffer zones along their defined perimeters. Class III wetlands are unprotected wetlands which are not Class I or II and have not been determined to have sufficient value for protection under Class I or II. A class III wetland may be petitioned for reclassification under specific procedures for upgrade to I or II.

The Town Plan and Zoning Bylaw propose no additional protection to wetlands beyond that provided by the State and Federal Regulatory Agencies, nor will the Town attempt to determine or define wetland areas as this is more of a role for State Agencies.

It is the intent of the Town plan to notify the citizens of Barton to be generally aware of wetland regulations and to obtain the proper state/federal determinations before attempting to fill or dredge a possible wetland area. Copies of National Wetlands Inventory Maps are available for viewing at the Town Clerk's office.

It is also noted that significant protected wetland areas may exist that is not fully or correctly delineated on the national Wetland Inventory Mapping. Landowners should verify these locations prior to commencing any land development which might impact these protected areas. State and Federal Laws provide for severe fines for unlawful filling, dredging or harmful alteration of protected Wetlands. The State of Vermont revised its definition of "significant wetlands" in 2010, and this expanded the amount of Class 2 wetlands in the Town.

## 10. River Corridors

The Vermont Agency of Natural Resources has developed river corridor data layers for Vermont communities to use for better land use planning and regulation. This came about from the catastrophic damage caused by Tropical Storm Irene. Identified river corridors hold the potential for erosive damage to occur, unlike the damage from inundation events normally seen when rivers overflow their banks. For Barton, the Planning Commission should consider amending the bylaw to allow for increased setbacks from the river corridors identified by ANR.

24 V.S.A., Chapter 117, Section 4382(5) requires: “*A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources*”;

### D. NATURAL RESOURCES, PUBLIC LANDS, RARE & IRREPLACEABLE NATURAL AREAS, SCENIC, and HISTORIC FEATURES & RESOURCES.

#### Overview:

It is clear that the Town’s natural resources serve as a strong tourist and recreational attraction. Tourism will likely remain one of the Town’s leading economic industries for the foreseeable future. For this industry to thrive, the Town’s natural resources must be protected. These resources include Crystal Lake, Baker Pond, May Pond, Wheeler Mountain, May Hill, Barton Mountain, the Lee Emerson Memorial Forest, and Crystal Lake State Park (listed on the National Registry of Historic Places), and also the Willoughby Falls Wildlife Management Area and the Barton River, all of which contribute to the unique scenic beauty of the area. Barton residents should have a general awareness of how these resources are critical to the town’s economy and environment.

Barton residents and the general public utilize and access the town’s natural resources in a number of ways. It is important to identify these resources and measures implemented to provide access to them. The state Fish and Wildlife Department has taken steps over the years to provide public access to public waters. These include developed boating access on Crystal Lake, and May Pond, and undeveloped boating access on Baker Pond, one developed angler parking area on the Barton River, one at the confluence of the Willoughby and Barton Rivers, and one at Willoughby Falls. Over 130 acres of Willoughby Falls Wildlife Management Area are in Barton. Also, during the 1950’s and ‘60’s, the Department of Fish and Wildlife acquired significant amount of stream bank land to provide fishing access and create a greenbelt along certain rivers. These include portions of both banks of the Barton River in the Town and the banks of the Willoughby Falls which are also in State ownership. It is well established that the Willoughby Falls springtime fishing contributes significantly to the local economy. Because many of Barton’s primary natural resources are its water bodies, the Town of Barton will protect these waters through floodplain management, buffer zones and

development setbacks.

Rare plants, animals and natural areas have been identified in the larger remote areas of town or located in designated wetland areas and are protected by the State of Vermont.

Historic structures have been identified by local, state, and federal agencies and other structures may be eligible for listing. Owners of these properties are encouraged to preserve these structures when economically and functionally appropriate, although there will be no specific requirement to do so without sufficient economic incentive or assistance. The Crystal Lake Falls Historic District (also known as the Brick Kingdom) is a historic site in Barton Village. It is located along Water Street. It was added to the U.S. National Register of Historic Places on August 7, 1994. The Crystal Lake Falls Historic District is known covers several blocks of the village. Roughly, Water St. from Church St. to Main St., Main from Water to Duck Pond Rd. and West St. from Cemetery Rd. to Main[1] The latter areas is known colloquially as the "Brick Kingdom." Harnessing power from the falls from Crystal Lake, factories clustered along Water Street. These manufactured piano works, furniture, ladies cotton garments, and baseball bats. Some of these dated to the 1790s. These mostly closed by the 1940s, with the last leaving in 1952.

24 V.S.A. Section 4382(3) requires: “A *transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need*”;

## E. TRANSPORTATION PLAN

### 1. Existing Transportation

Currently the main highways for transportation to and through Barton are U.S. Route 5 and Interstate 91 linking Barton with Newport to the north and Lyndon and St. Johnsbury to the south. State Highway 16 links Barton with Hardwick and Montpelier (and Westmore to the east) and State Highway 58 provides access to Irasburg and Brownington. A state-owned rail line (Vermont Rail Company) carrying freight trains run through Barton along the Route 5 corridor through the built-up areas of both Villages. Historically, traffic levels have shown a gradual increase along Route 5 especially at the Interstate 91 interchanges. . Generally since 2003 AADT has declined or held steady on I 91and US Rte 5. Data is available in ATR Station History 2003-2013.

[http://vtransplanning.vermont.gov/sites/aot\\_policy/files/documents/trafficresearch/ATRStaHist2003\\_2012.pdf](http://vtransplanning.vermont.gov/sites/aot_policy/files/documents/trafficresearch/ATRStaHist2003_2012.pdf)

For the past 150 years, the Town has been a throughway area for railroad traffic

with one of the State's major railways passing through both villages. Over the years this access to rail contributed to the economic development of the Town. The availability and frequency of rail service has steadily declined over time as greater emphasis was placed on trucking to satisfy time-sensitive delivery of freight. However, with the recent escalation in energy costs, this decline has begun to reverse itself and increased usage of rail is expected in the foreseeable future. The railway is currently owned by the State of Vermont through the Agency of Transportation (VAOT) and operated by the Connecticut River Subdivision of the Washington County Railroad. There have been recent upgrades made to sections of the railway passing through Barton and these are ongoing. A rail siding has been constructed just off of May Farm Road that will be used as a freight trans-load facility for agricultural products.

## 2. Proposed Transportation

The transportation plan for Barton recommends the upgrading or maintaining of existing roads to meet certain standards which are commensurate with the most recent version of the VAOT Orange Book a handbook for Local Officials. [http://vtransoperations.vermont.gov/sites/aot\\_operations/files/documents/AOT-OPS\\_OrangeBook.pdf](http://vtransoperations.vermont.gov/sites/aot_operations/files/documents/AOT-OPS_OrangeBook.pdf). U.S. Route 5, State Highway 16 (south of the Village of Barton) and State Highway 58 (west of Orleans Village) are classified as rural major collectors. Roads classified as major collectors are designated to handle traffic between counties and the population centers which are not served by higher classification roads and to link population centers with other traffic generators. Town Highway #1 (a.k.a. State Highway 16 east) north of Barton Village, State Highway 58 (east of Orleans Village, Town Highway 2, and Roaring Brook Road are classified as rural minor collectors. These roads are designed to link local roads with major collectors, tie them in with smaller settled areas and link important local traffic generators with rural areas.

The Road Commissioner(s), Select Board, and Trustees should develop a priority list and repair schedule for roads and Bridges most in need of repair or upgrade. The town should review and prioritize particularly the town short structures (Bridges under 20 ft) as these are not inspected by VAOT unless specifically requested by the Town. Barton Town and the two villages support the widening of shoulders on VT Rt. 16 and US Rt. 5 to improve safety for cyclists and pedestrians.

Informal "Park and Ride" areas have been established at the junction of U.S. Route 5 and VT Route 58 in Orleans Village, and near the VT Route 16 and I-91 interchange in Barton Village, to facilitate car and van pooling which has experienced a significant increase in recent years. The Town and/or Villages should explore improving/formalizing these locations through the Municipal Park and Ride Grant Program: <http://vtransengineering.vermont.gov/sections/ltf/parkandride>

Car and van pooling not only conserves energy but also reduces Vermont's carbon footprint and should be encouraged going forward. In addition, Rural Community Transit (RCT) provides valuable shuttle service for area senior citizens and the disabled adding to

the benefits of group transportation.

Bridge and culvert maintenance is an important activity that extends the useful life of transportation infrastructure. Local road departments should utilize VOBCIT (VT Online Bridge and Culvert Inventory Tool) to keep their inventory updated annually <http://www.vtculverts.org/>

There have been developments at the Newport State Airport in Coventry over recent years and more is planned, including a runway extension to accommodate larger aircraft. There may be business opportunities associated with the airport development that could benefit local businesses in Barton.

Both Orleans and Barton Villages have sidewalk networks that are important for residents to safely and efficiently move around the community. The Villages should prioritize sections that need to be connected and plan upgrades for accessibility, as well as develop a reasonable maintenance cycle to protect the original investment. Vermont has a Bicycle and Pedestrian Grant Program that each Village should consider to make improvements: <http://vtransengineering.vermont.gov/bureaus/mab/local-projects/bike-ped>

Bicycling is common on roads within Barton and its villages. By visiting the web link [www.nvda.net/files/cyclingthekingdom070413.pdf](http://www.nvda.net/files/cyclingthekingdom070413.pdf) it becomes apparent that Barton is an important community in the region's popular bicycle networks. The "Around the Block" loop passes through Barton in a north-south direction, while Rt. 16 connects Barton with communities east as part of the "Glacial Lakes" loop. Maintaining adequate road shoulders along all paved roads in the town is important for bicycle traffic.

Access management is important for protecting the functionality of Town and State Highways. This is done by controlling the location and number of access points onto the highways. Both VAOT and the legislative bodies are responsible for issuing 'curb cut' or 'access' permits for new developments that need to access local highways.

The Town would support a greater use of the existing rail facilities for commerce, especially if it reduced or avoided additional freight traffic on existing highways in the Town. There are rail sidings in Orleans and south of Barton Village, and a new facility just off of May Farm Road. There is room to expand economic activities at the May Farm site.

24 V.S.A., Chapter 117, Section 4382(4) requires: "*A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for*

*community facilities and services, with indications of priority of need, costs and method of financing”;*

## F. COMMUNITY FACILITIES, UTILITIES & SERVICES

### 1. EXISTING FACILITIES, UTILITIES & SERVICES

#### a. Municipal Buildings

The Town offices, including the Town Clerk’s office, Listers’ office, the Zoning Administrator’s office and municipal meeting room are located at 34 Main Street in the Village of Barton. These offices were originally located on the second floor of the Howard Bank Building but were moved to a separate, newly renovated building at the south end of Main Street in 1999.

The Village of Barton has a centrally located, two-story, brick municipal building, called the Memorial Building. Built in 1931, the building appears to be in good condition and provides adequate space. The left side of the building houses the Villages offices on the first floor, the American Legion Hall, with kitchen facilities, on the second floor; while the right side of the building is a 400-seat auditorium with movie facilities, a stage for theatrical productions, and a new elevator for handicapped access. There is a small meeting hall, with kitchen facilities, for various groups and organizations along with storage spaces for village vehicles on the ground level. The basement is used as a meeting hall for various groups and organizations, including an active senior center.

The Orleans Municipal building is a brick, three story building build in 1929. On the first floor are the village municipal offices, reception hall and kitchen facilities. The second floor is a 440-seat auditorium with movie facilities and a stage for theatrical productions. The Masonic Order and the Order of the Eastern Star, with dining and kitchen facilities, share the third floor. In recent years, the building has benefited from a number of renovations and the building appears to be in good condition.

#### b. Police Protection

The Villages of Barton and Orleans and the Town of Barton receive law enforcement services from the Orleans County Sheriff’s Department and the Vermont State Police. 911 police calls are dispatched through the State Police Barracks in Williston, VT, but an alternate service option with the county is being explored. Services with the County Sheriff are contracted and the Town has the option to vary the level of service within the Town to best meet local needs.

#### c. Fire Departments

There are two fire departments in the Town of Barton. Barton Fire Department located on Main St. in Barton Village and Orleans Fire Department located on Main St. in Orleans Village. All 911 fire calls are dispatched to the fire departments through the

Vermont State Police Barracks in Williston, VT. The Barton Village and Orleans Village fire departments are all volunteer staffed and provide service to the Villages, Town and provide mutual aid for each other and other Towns.

In addition, the Town is a member of the Local Emergency Planning Commission (LEPC) for District 10. The LEPC focuses on planning for a variety of disasters that may affect the community including floods, hazardous material spills, wildfires, natural disasters, and even acts of terrorism. Currently, the Town is beginning the process of drafting an All-Hazards mitigation plan update that would identify potential risks to the community and plan for mitigation efforts.

The Barton Fire Department is housed in a two story frame building, which is in good condition. The first floor is a garage that houses three small engines and a van. The second floor is a meeting room with kitchen facilities. In 2007, an additional 30' x 30' two bay garage was constructed adjacent to the existing fire station adding much needed storage space for the department.

The Barton Fire Department has the following equipment:

- 2008 International quad-cab pumper with a 1000 gallon tank
- 2001 Freightliner with a 1500 gallon tanker (Purchased used in 2013)
- 1995 Ford F350 Equipment Response Vehicle (purchased used in 2011)
- 1993 Ford F350 (4x4) 750 gallon per minute mini pumper, 250 gallons storage with Class A foam, equal to 1250 gallons capacity water.
- Equipment Van.
- Portable pumps, generators, resuscitator, thermal imaging camera and other minor equipment.

The Barton Fire Department is constrained for new equipment purchase due to the small antiquated station bays.

The Orleans Fire Department was recently relocated to a new 80' x 60' fire station building on Main Street in 1998. The fire station consists of four bays with room enough for two vehicles each and a training room with kitchen. The building should be adequate for the department's equipment needs for the foreseeable future. The Orleans Fire Department has the following equipment:

- 2000 International 4-door pumper with a 5-man cab, 1250 gallon per minute pump and a 1000 gallon tank.
- 2006 International pumper with 1500 gallon per minute pump and a 1000 gallon tank.
- 1987 Freightliner Tanker with a 3,000 gallon tank.
- 1987 Freightliner Van
- 1974 International with a 1250 gallon per minute pump with 1000 gallon tank.
- 1985 Ward LaFrance Ladder/Tower Truck
- 1938 International with a 500 gallon per minute pump

The Orleans Fire Department equipment has been available to the Barton Fire Department upon request. The tanker is on automatic response to any fire in the Town of Barton.

#### d. Ambulance / Rescue Squads

There are two ambulance/emergency units in the Town of Barton. The Barton Ambulance squad, located on Municipal Lane in Barton Village and Orleans Emergency Unit located on U.S. Route 5 adjacent to Orleans Village.

The Barton Ambulance squad is an all-volunteer, 24 hour emergency service. The squad located to its Municipal Lane facility in 2001.

The building has two stalls, a training room, an office, and a kitchen. The squad has two ambulances: one 1989 Ford Van and one 1999 Ford box style.

Orleans also has an all-volunteer ambulance/rescue squad known as the Orleans Emergency Unit. The unit currently uses two ambulances: one 1999 Chevrolet box style and one 1997 Ford F-350 Heavy Rescue Unit equipped with the “jaws of life.” The squad uses the phone system for notification and offers 24 hour service, with State Police dispatch.

#### e. Public Recreation and Open Space

The community has several publicly owned recreation areas or open spaces. The existing public recreation areas include the public school playgrounds in Barton and Orleans Villages and Lake Region Union High School. Amenities include ball fields, basketball and tennis courts, playground equipment, and a winter skating rink.

Barton Village also has Pageant Park and the Crystal Lake State Park on the north shore of Crystal Lake. The Lee Emerson Memorial Forest is a town-owned parcel located off Route 16 and available for hiking, and the Orleans Country Fairgrounds offers a number of events around the year for the public to attend. Barton Village purchased land along the Barton River and adjacent to its ballfield with conservation grant funds some years ago. They would like to develop the land as a park for recreational use.

#### f. Public Works

Maintenance work in the Town and both Villages is performed primarily by municipal employees using municipal equipment, with some work contracted out to private businesses on occasion. Both Barton and Orleans Villages have municipally-owned water and wastewater systems, and each operates a municipal electric utility that serves a geographic area larger than the village municipal boundaries. Barton Village contracts with a private outfit to operate its water and wastewater systems.

Each of the three municipal entities – the Town and two incorporated Villages – has a road or street department with their own equipment. The Villages of Barton and

Orleans each have sidewalk networks to maintain as well.

g. Libraries

There are two Public Libraries in the Town of Barton. The Barton Public Library located on Church Street in Barton Village and the Jones Memorial Library located at the intersection of Church Street and Water Street in Orleans Village.

The Barton Public Library is a two-story brick building constructed in 1928 with a new addition in 1984 and contains 3840 square feet of space. The library contains a large collection of reading materials, offers wireless internet and computer access, and hosts book discussions, film showings, and story hours for children. The library is staffed by one full-time librarian and two part-time aides. The library is open at limited hours on Monday, Wednesday, Friday, and Saturday.

There is a meeting room downstairs, with kitchen facilities available to educational, cultural and civic organizations and groups for occasional meetings and special events. The library is more than adequate for its present use. *The Barton Public Library and its Board of Trustees endorse the Library Bill of Right and offers its services to all groups regardless of beliefs and affiliations.*

The Jones Memorial Library is housed in a two-story brick building constructed in 1950 with a new addition added in 1989. The 4,864 square feet provide adequate space for the collection of 27,717 volumes. Personal computers are available to the public and wireless Internet access is available. The basement provides the village with some meeting space which is used by local clubs. The library is staffed by one full-time librarian and two part-time aides. The library offers limited hours of service on Monday, Wednesday, Friday, and Saturday. *The Jones Memorial Library and its Board of Trustees endorse the Library Bill of Right and offers its services to all groups regardless of beliefs and affiliations.*

h. Water Supply and Wastewater Systems Utilities:

There are two municipal public community water systems that serve over 500 people in the Town of Barton. One system serves the Village of Barton and the other system serves the Village of Orleans. The Town has no role in operating either village – owned system. Homes and public buildings outside of the Village of Orleans and Village of Barton utilize onsite water supply systems. These systems include drilled bedrock wells and shallow spring wells.

#### VILLAGE OF BARTON PUBLIC WATER SYSTEM

The Village of Barton is supplied by surface water from May Pond Brook. The Village treats the surface water for a system demand of approximately 60,000-120,000 gallons per day. The facility is located approximately 1 mile outside of the Village on the

Willoughby Lake Road. The current facility was constructed in 1992 along with a concrete water storage tank for average day demand and fire protection. During the 1992 project, the Village replaced some of its antiquated cast iron transmission main into the Village center. In 2011 the village completed construction on major water main replacements throughout the village to restore the ability to adequately flush all water mains. This undertaking also ensured that there would be a fire hydrant capable of producing 500 gallons per minute within 500 feet of each home in the Village.

## VILLAGE OF ORLEANS PUBLIC WATER SYSTEM

The Village of Orleans is supplied by a groundwater source located along the Willoughby River. The Village provides treatment and has storage for average day demand and fire protection for the Village. The Village has continued to replace water mains to improve water quality, ability to flush and ability to provide fire protection.

Other types of public and non-public water systems exist for other public buildings that are not connected to the municipal systems. These smaller water systems include Lake Region Union High School, Maple Lane Nursing Home, the B&W Snackbar, the Candlepin Restaurant (currently closed) and the Pine Crest Motel. Development of public buildings and multifamily buildings is encouraged in areas that can be connected to the Public Community Water Systems of Orleans and Barton Village. New public water systems although allowed are not encouraged because they require more part time certified operators. Consolidation of systems is always encouraged.

All public water systems throughout the Town include source protection areas. The water systems are requirement to maintain and update source protection plans. Any landowners within these source protection areas are notified by the water system as required by the State of Vermont. The Village of Barton water system has the largest source protection area since it treats surface water, however the majority of this source protection area is rural undeveloped land. There are no major restrictions in these areas but human activity creates possible sources of contamination.

The most recent source protection areas in the Town of Barton can be found on the State of Vermont Natural Resource Atlas <http://anrmaps.vermont.gov/websites/anra/>.

Both Villages have been active in the past in improving the quality and quantity of their existing water supplies,

## WASTEWATER UTILITIES:

The majority of homes in the Town of Barton utilize individual onsite wastewater systems such as in-ground systems or mound wastewater disposal systems. The Town also has two municipal wastewater (sewer) collection and treatment systems. These are village-owned and operated systems. One system is located in the Village of Barton and the other system is located in the Village of Orleans. Both treatment systems discharge to

the Barton River. Prior to 1979, these village centers only operated combined wastewater and stormwater collection systems that discharged directly to the river. Construction of separated sewer systems and treatment facilities were a result of federal mandates and grant programs in the 1972 Clean Water Act.

#### VILLAGE OF BARTON MUNICIPAL SYSTEM

The Village of Barton Wastewater System is generally described as gravity sewer collection system. All Village sewage is collected at the Main Pump Station located behind Church Street and is pumped to the Wastewater Treatment Facility located on Municipal Lane.

The Barton Village system uses an aerated lagoon system treatment system, prior to discharge to the Barton River. The Barton system was designed for an average day of 165,000 gallons and a maximum day of 240,000 gallons. Barton's average day flows are significantly below the average day design but the village system has continued to deal with flows exceeding the maximum daily design due to precipitation events. The Village has constructed major collection system upgrades and stormwater separation projects in 1979, 1992 and 2012. The 2012 project also provide sewer to the remaining areas of the Village that had undersized sewers or no previous access to the sewer system.

The Barton Village System also operates as a shared use system. Twenty percent (20%) of the capacity of the treatment facility was designed and reserved for the Town of Glover. The Town of Glover constructed a collection system in 1980 and pumps wastewater north to Barton Village along route 16. Flows from Glover have begun to increase recently due to Glover's recent expansion to service the area of West Glover village which had a failed onsite wastewater system. Glover's wastewater is metered prior to discharging into the Village of Barton collection system.

#### VILLAGE OF ORLEANS MUNICIPAL SYSTEM

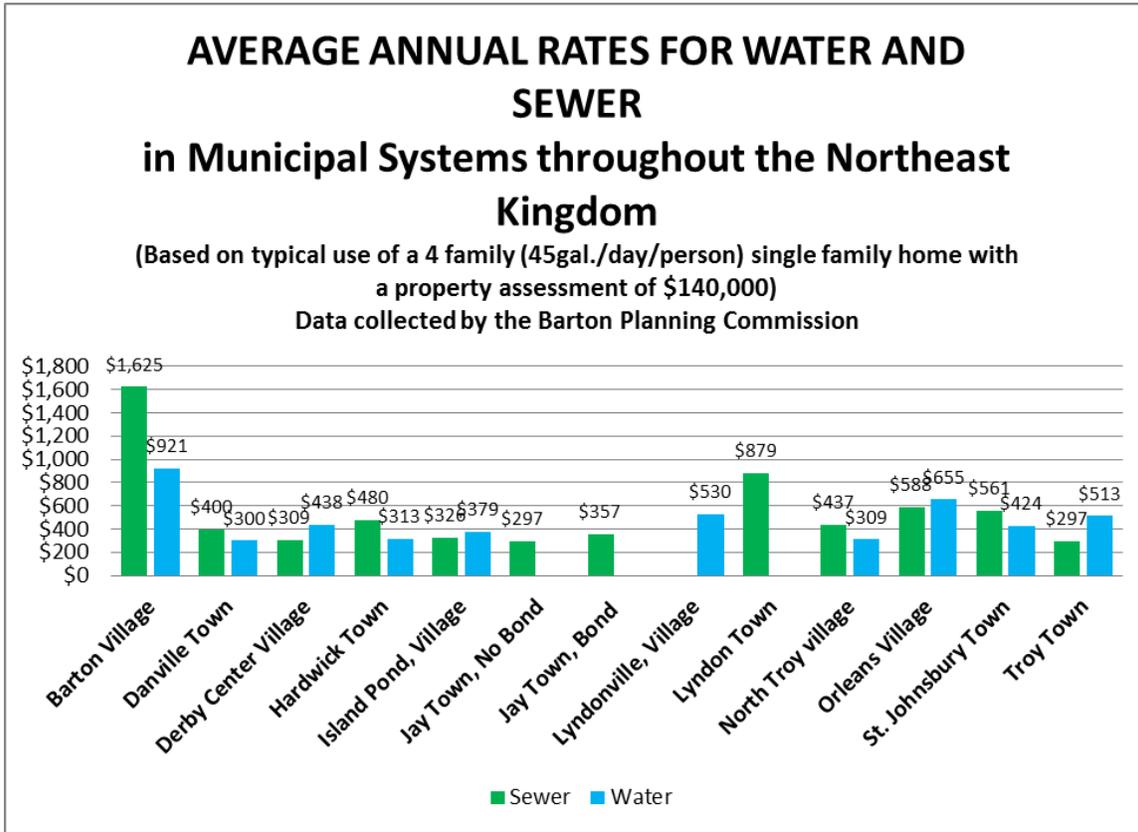
The Village of Orleans Wastewater system is generally described as a gravity sewer collection system. Six collection pump stations are also located throughout the system. Once collected, wastewater is sent to the Wastewater Treatment Facility located on River Road.

The Orleans Village System was designed as an aerated lagoon treatment system similar to the Barton Village System. The system had issues meeting discharge limits through the 1990's and it was converted to an Advanced Oxidation (AO) Treatment Process utilizing concrete clarifiers and improved filtration. The Orleans Village system was designed for a maximum day capacity of 190,000 gallons and does not have issues exceeding average day flows.

The Village has constructed major collection system upgrades and stormwater separation projects including the original construction, including 1995 and the early

2000’s. The Orleans Village System also receives waste from the Orleans Industrial Park and from the Ethan Allen Manufacturing Facility.

An informational comparison of user rates for municipal systems throughout the region for 2013 is listed below.



24 V.S.A., Section 4382(9) requires: “An energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy”;

i. ENERGY

Barton’s energy needs are currently being met by the Orleans and Barton municipal electric departments, fuel oil and gasoline suppliers and propane distributors, and cord wood and wood pellet suppliers.

Historically, most residents use either fuel oil or propane to heat their homes in

the winter time, although many residents have supplemented or replaced those sources with wood or wood pellets. Some newer homes have employed radiant heat as an efficient heating source. Most of the Town's municipal and commercial buildings are heated with fuel oil. Electricity may also be an option for some as electric heat pumps are now being promoted statewide.

Car and van pooling by residents has increased in recent years as more and more residents are working outside of the Town. "Park and Ride" areas have been established at the junction of U.S. Route 5 and VT Route 58 in Orleans Village, and near the U.S. Route 5 and I-91 interchange in Barton Village. Utilization of the park and ride areas by local residents is expected to increase over time as gas prices continue their gradual climb.

Electric power supply is provided by Barton Electric Department and Orleans Electric Department. The electric departments purchase power from the New England Power Grid. The electric departments own and maintain a transmission main from the distribution main connection located on Route 16 south of Barton Village to the Substation on Baird Road. The Orleans Electric Department has recently overseen and coordinated the upgrade and replacement of the transmission system. Barton Electric Department offsets part of its power supply purchase costs because the Village owns a generation facility that feeds into the New England power grid. The facility is located on the Clyde River in West Charleston, VT. Through participation in a committee, Barton Village investigated a hydroelectric generation facility that would have been located at the outlet of Crystal Lake. The project was determined to be infeasible. Upgrades and repairs to other existing electric infrastructure are ongoing in both Villages, including transmission lines and facilities.

Maintaining sufficient capital for system improvements is an ongoing problem, especially for small-scale utility systems. The result has been higher residential electric bills. Because of their small customer base, the per customer cost of regulatory compliance for both Barton Electric and Orleans Electric is high. As regulatory requirements grow, a disproportionate amount of compliance cost will be passed on to the residential customer relative to the larger utilities (GMP, VEC, etc.) which have greater economies of scale and a more diversified customer base. This will continue to be an ongoing problem for both electric companies for the foreseeable future.

Both Orleans and Barton Electric are members of the Vermont Public Power Supply Authority (VPPSA). The VPPSA assists its members with power supply purchase contracts necessary to meet municipal needs, and also with financial monitoring and billing services.

The Planning Commission recognizes the importance of renewable energy resources and generally supports their development for residential use within the Town as a whole. These resources would include residential-scale wood and solar heat, solar electricity, small-scale wind turbines, and geothermal systems. Community-scale (or

commercial) solar arrays, wind turbines, biomass systems, and hydroelectric generation facilities require more thoughtful public consideration for siting due to potential impacts on adjacent properties.

#### Industrial Wind:

Industrial wind energy developers have identified areas in the Northeast Kingdom as preferred locations for the development of commercial (industrial) wind power generation facilities. The nearest facility is located in the neighboring town of Sheffield, with a second project located in Lowell. Both projects can be seen from numerous locations in Barton. The Town and Village of Barton have been participants in the Public Service Board's Section 248 review process for energy generation projects. Future plans for the development of large-scale commercial wind generating projects within the Town are unknown at this time, but any local support would be in conflict with the NVDA Regional Plan's statement of 'non-support' for industrial scale wind projects in the region.

#### Portland Pipeline:

Running through much of Barton is The Portland Pipeline - a combination of major crude oil pipelines that stretches from Portland, Maine, through Guildhall, VT running in a northwesterly direction toward Jay, VT before heading into Canada. While Vermont doesn't tap into the pipeline at any point, its existence in our region as major transporter of oil is important for potential future use.

In Barton, the pipeline(s) runs along the western side of Crystal Lake and cross the Barton River near the Interstate exit for Barton Village. These are important water resources for Barton and other communities. With the average age of the pipeline(s) being approximately 60 years old, it is important that the pipelines be kept in a safe operating condition to prevent future leaks/spills.

24 V.S.A., Section 4382(a)(6) requires: "*An educational facilities plan consisting of a map and statement of present and projected uses and the local public school system*";

#### j. SCHOOLS

The Barton graded school is a four-story brick building which at one time also served as the high school (Barton Academy). The school has an average enrollment of between 148-173 pupils in kindergarten through grade eight over the last 6 years, instructed by 21 teachers and 18 support staff. The school has 16 classrooms including a library. The gymnasium is available for community activities and has been used as the site for the Town's Annual Meeting.

St. Paul's Catholic School, serving grades Pre-K to 8<sup>th</sup>, is also located in Barton Village. It is a private school with a current enrollment of approximately 75 area students, including students attending from other towns in Orleans County.

The Orleans Elementary School is a 90 year old brick structure located on School Street in Orleans Village. Like Barton, the graded school once served as a high school for the village. The school has kindergarten through 8<sup>th</sup> grade and an enrollment of between 160-200 pupils. Presently the school is staffed by approximately 13 teachers, with an additional part-time teaching staff. The building consists of 10 classrooms, a library, laboratory, and a gymnasium, but an addition in 1993 more than doubled the available space and eased congestion. Internal improvements and remodeling have taken place within the past few years and are ongoing. The building is available for community access such as adult gymnasium use, fire department training programs, and organized summer activities for students. The current building facilities are considered to be adequate for the foreseeable future. The school recently participated in the "Safe Route to School" program and worked with the Village to improve walking routes for students.

The Lake Region Union High School serves the Town of Barton, both villages, and five surrounding towns. The all-brick structure is located between the two villages on Lake Region Road in Barton. The current enrollment is approximately 400 pupils in the ninth through twelfth grades, with an average student/teacher ratio of 10 to 1. The facilities include 23 classrooms, an Academic Achievement Center (formerly the Lecture Hall), a 70 pupil library, 5 laboratories, an industrial arts room, a vocational/agriculture room, a drafting room, a music room, a gymnasium, fitness and weight room, and a cafeteria with a seating capacity of 450. The school is staffed by approximately 40 teachers, 3 guidance counselors, 1 nurse, 5 teacher's aides, 3 secretaries, 3 cooks, 4 custodians, a principal and an assistant principal. Outdoor recreational facilities available to the general public include: tennis courts, basketball court, baseball/softball diamonds, a cross country course, and soccer fields.

The Central Orleans Family Education Center located on Kinsey Road in Barton was built in 2003. This 10,000 sq. ft. facility provides pre-school education programs as well as adult educational and training programs to area residents. Also, several owner operated daycare service providers are available in both Villages.

#### k. Solid Waste Disposal

In 1992, the Town of Barton closed its landfill operation on May Farm Road. The town monitors the landfill in the spring and fall of each year. The town received its post closure certification from the State of Vermont Agency of Natural Resources, Waste Management Division, in 2002. This certification is renewed by the State every five years provided that test results at the site remain satisfactory. The town utilizes the lined solid waste disposal facility at Waste USA on Airport Road, in Coventry, Vermont. Residents can either self-haul or contract individually to transport waste to the Coventry facility. Household hazardous waste is collected twice per year at pre-selected sites

within the town. Recycling facilities are available at the old town landfill location on every Saturday of each month.

Barton is now dealing with a law passed by the Vermont legislature that addresses recycling (Act 148, the Universal Recycling Law). The primary goal of Universal Recycling is to improve the capture and diversion rates for recyclable materials to prevent them from being landfilled. When the law takes full effect more materials will supposedly be diverted from the landfill.

Recyclables banned from landfills by July 1, 2015 include: aluminum and steel cans; glass bottles and jars; plastic containers, bottles and jugs; corrugated cardboard; white and mixed paper, newspaper, magazines, paper mail, and envelopes, and paper bags. By July 1, 2016, leaf and yard debris and clean wood waste will be banned from landfills, and by 2020 all food scraps will be banned (initiated in phases beginning in 2017). For more information: <http://www.anr.state.vt.us/dec/wastediv/solid/act148.htm>

Solid waste facility owners that offer trash collection must also offer collection of: Recyclables by July 1, 2014; Leaf and yard debris by July 1, 2015, and; Food scraps by July 1, 2017. Haulers that offer services for managing trash must also offer services for managing: Recyclables by July 1, 2015; Leaf and yard debris by July 1, 2016, and; Food scraps by July 1, 2017.

Provisions for the inclusion and enforcement of ordinances for the regulation of junky yards were deemed necessary and were implemented by the town and Barton Village in 2005. The degree to which these ordinances have been enforced in some areas is questionable. Also, the Town maintains an approved Solid Waste Improvement Plan (“SWIP”) that benefits its residents with reduced waste rates while allowing for recycling and household hazardous waste (“HHW”) collection. Barton, unlike most towns in the region, does not belong to the Northeast Kingdom Waste Management District. The NEKWMD maintains a regional solid waste plan for its members. As solid waste planning becomes more complex and costly, the Town should consider joining NEKWMD. The organization has grown and evolved since its inception over 15 years ago.

#### 1. Medical Services:

The Orleans Medical Clinic is located on East Street in Orleans Village closed in 2014, leaving the clinic in Barton Village as the nearest medical facility.

A medical facility is located at the intersection of Elm St. and Kinsey Road in Barton Village. The recently expanded facility is owned by North Country Hospital and provides various medical services to both residents and non-residents of the Town. The lower floor of this facility is used by North Country Hospital’s Physical Therapy Department.

m. Museums/Historical Sites:

The Crystal Lake Falls Historical Association operates a museum located off Water Street in the Village of Barton. The museum and much of the area surrounding it are part of the Crystal Lake Falls National Historic District.

The Pierce House, historic ca. 1820 home on Water Street, services as the Crystal Lake Historical Association Museum for Barton's Education and Industry. The Museum adjoins an historic park in the "Brick Kingdom" Mill Hill site, where factories and mills once operated from about 1797 to 1952. In the museum is a model of Mill Hill, created by Lake Region High School students. The museum is open on selected afternoons in the summer and by calling members for access. CLFHA works with the schools and provides slide lectures and exhibits and prepares oral histories and photographic and research material. There is no admission charge.

There are also a number of historic sites within the Town worth noting including: the Henry Leland monument at the Barton Public Library; the Barton Landing site and marker on the River Road in Orleans; and historic cemeteries such as the Welcome O. Brown, St. Paul's, Heath, and North and South cemeteries in Barton, and the Maple Street, Pleasant View, and St. Theresa's cemeteries in Orleans.

Pageant Park was the setting for the elaborate historical pageant to commemorate the 125<sup>th</sup> anniversary of the settling of the Town. The elaborate production lasted from July 1, 1921 to July 4, 1921. A grandstand was built with seating for 1200 people. In 1924 Henry Cutler donated the land to the village to be used as a municipal park, hence the name Pageant Park.

Village Center Designation:

The Village of Barton also has a state-designated Village Center. The designated area roughly extends from the intersection of Glover and Elm Streets into the village center to Lincoln Avenue, and then up Main Street up to Duck Pond Road. The Village Center designation brings with it a number of benefits, including:

- 10% Historic Tax Credits - Available as an add-on to approved Federal Historic Tax Credit projects. Eligible costs include interior and exterior improvements, code compliance, plumbing and electrical upgrades.
- 25% Facade Improvement Tax Credits - Eligible facade work up to \$25,000.
- 50% Code Improvement Tax Credits - Available for up to \$50,000 each for elevators and sprinkler systems and \$12,000 for lifts. Eligible code work includes ADA modifications, electrical or plumbing up to \$25,000.
- Priority consideration for Municipal Planning Grants and funding from Vermont's Community Development Program.
- Priority site consideration by the State Building and General Services (BGS) when leasing or constructing buildings.

- Special Assessment Districts (or business improvement district)– May be created to raise funds for both operating costs and capital expenses to support specific projects in the village center.

Owners of properties in the Village Center or National Historic districts should consider the resources available to them as they make property improvements. The designated Village Center for Barton does not match up with the boundaries of the Crystal Lake Falls National Historic District, although they is some overlap. Village Center Designation should be explored for the Village of Orleans, as well, so that commercial properties can benefit from tax credits.

Recent statutory changes in Vermont require local plans to be more specific about village center designation and how a village center furthers goals of the town plan. In addition to the tax credit opportunities already listed, here are other examples of how the designation can benefit Barton and Orleans Villages:

- Transportation: Sidewalk networks in both villages are important to the town. This plan recommends pursuing Bicycle and Pedestrian Grants to make sidewalk improvements. Priority consideration for funding is given to communities with designated village centers.
- Utilities and Facilities: This plan recommends pursuing Historic Preservation Grants. This program is highly competitive, but if a project is in a designated Village Center, the application automatically gets an extra point.
- Housing: This plan talks about the age of the housing stock and supports efforts to make improvements (mostly for saving energy, but also for preservation) The Village Center designation tax credit program has been used to improve housing stock in the NEK, and even has created market-rate housing. Unlike other tax credit programs, this is easy to administer, can be sold to banks as collateral for a project, and there's no recapture if a property is sold. These credits may be particularly attractive to private property owners, who don't have the capacity to administer other federal and state tax credits (like the low-income housing tax credit).
- New Neighborhoods – this is an area within a quarter mile radius of the Village Center designation area. Since this plan proposes to increase the density in the Village zoning districts, the New Neighborhood program may benefit the town. There are reduced permitting fees on appropriate infill development.

Historic Preservation Grants have been used to revitalize buildings such as town halls, museums, theaters, libraries, recreation centers and other municipal buildings. If a municipality (town or village) or a non-profit organization owns a historic property, they may be eligible to apply for a Historic Preservation Grant to assist with the cost of repairing and maintaining your building or structure. Match is 1:1 and the limit is \$20,000.

[http://accd.vermont.gov/strong\\_communities/preservation/grants/historic\\_preservation](http://accd.vermont.gov/strong_communities/preservation/grants/historic_preservation)

n. Wireless Telecommunications

The Town currently has wireless telecommunications facilities located on Ingersoll Lane (Verizon), Burton Hill (Verizon) and Barton Mountain (AT&T). These communication facilities are used by their associated tier I providers and they provide facilities for tier II operators. These Tier II operators include companies such as Consumer Cellular, Tracfone or Straight Talk that provide that generally provide lower cost or pay as you go plans. Residents, especially lower income residents should look at these Tier II operators as lower cost alternatives for service. .

Although the Telecommunications Act of 1996 prevents municipalities from prohibiting these towers, towns can control how the towers are placed and located. Pursuant to this, and to help guide the expansion of this technology within the Town, the Town adopted a telecommunications provision for the zoning bylaw, however, developers do have an option to bypass local permitting and use the Public Service Board's Section 248 certificate of public good process. This has been done in recent years.

## 2. COMMUNITY FACILITIES, UTILITIES & SERVICES - OBJECTIVES/RECOMMENDATIONS

a. Recommendations for Municipal Office Buildings

Both villages currently own and use municipal office buildings of a similar nature. If the two villages and the town were ever to consolidate into one political entity, the Town Office could conceivably serve as the central administrative office center with either the Orleans or Barton Village municipal office buildings serving ancillary purposes. The Barton Village and Orleans Village municipal buildings are historic structures. It is important to renovate, update and expand the buildings in accordance with the historic preservation requirements of the State of Vermont and to protect the character of the Villages. All municipal office buildings received energy efficiency audits in 2010. The audit recommendations, which included costs and payback periods, should be implemented to save taxpayer money.

b. Recommendations for Police Protection

Police protection needs of the Town of Barton and both Barton and Orleans Village should continue to rely on County and State resources. Maintaining the flexibility to shift the amount of contracted coverage with the County Sheriff between the villages and the town is important.

c. Recommendations for Fire Protection

Population projections indicate only small to moderate growth envisioned for all of Barton, therefore, the current fire station locations in Orleans and Barton Village should be adequate for the near future. The departments should train together when possible and explore other ways in which they could work together, including a combined leadership structure, to keep total costs down and improve the coordination of services. As the departments often respond together via their mutual aid agreement, Town and Village officials should encourage the departments to consider joint management or merger for greater effectiveness and efficiency.

#### d. Recommendations for Water Supply and Wastewater Disposal Utilities

The municipal water systems are encouraged to maintain the water systems through annual flushing programs, valve operation, hydrant operation, backflow protection for commercial users and to follow the guidance in source protection plans to protect the citizens of the Town of Barton. The Villages are also encouraged to follow regulatory requirements to use certified operators for all system components. The Villages are also encouraged to notify the residents of the Town and Villages of the Source Protection Areas for the public community water systems.

The systems are encouraged to control costs for operation and maintenance. The rates are currently structured on water meter readings and costs rise significantly when household size increases thus creating hardship for large families. The Village is also encouraged to look at other water supply sources that require less demand for operation thus reducing operating costs. Most surface water treatment facilities are found in communities much larger than Barton where more users can absorb the cost of full time operators with the expertise to treat surface water.

New public water systems although allowed are not encouraged because they require more part time certified operators and part time managers. Consolidation of systems and connection to existing systems is encouraged whenever possible. It is also encouraged to actively control user costs in municipal or shared systems to ensure that user rates are relative to nearby communities and onsite wastewater disposal costs. Controlling rates is critical to the ability to attract new residents and businesses.

The municipal wastewater disposal systems will continue to require maintenance including manhole maintenance, frame and cover repairs from corrosion, pump equipment replacement and inspections for major precipitation inflow and infiltration. It is anticipated that the both Municipal Systems will be subject to future upgrades not only for age replacement but for increasingly lower discharge limits for pollutants such as phosphorus. The Barton River is part of the Lake Memphremagog Watershed Basin and Lake Memphremagog is an impaired water body due to excessive phosphorus. Vermont adopted a Basin 17 Water Quality Management Plan in January 2012 and the top priorities include establishing a Total Maximum Daily Limit (TMDL) for phosphorus and to complete stormwater system mapping in the Village of Barton and Orleans including illicit discharge detection.

It is encouraged to consolidate wastewater disposal systems when possible. It is also encouraged to actively control user costs in municipal or shared systems to ensure that user rates are relative to nearby communities and onsite wastewater disposal costs. Controlling rates is critical to the ability to attract new residents and businesses.

e. Recommendations for Energy Sources and Uses

**Electric Service:** As mentioned above, Barton Electric's production capabilities help both to mitigate costs and to make it attractive for purchase by larger systems. A sale, however, would be a Village registered voter decision. Employee costs for small systems tend to be relatively high and it has been difficult to retain experienced linemen when other utilities can pay more. Also, the complexities of the electric industry require a significant investment of time for project permitting and development, system planning, and operations. The Village of Barton should also explore options to: a) merge or jointly manage its department with the Orleans Electric Department or others, or b) consider selling the department to a larger utility as another way to save ratepayers money.

The Planning Commission reiterates its earlier recommendation that power generation potential of Crystal Lake falls outlet be investigated to determine if and when this resource could be developed for small hydro generation purposes. It is recommended that the historic value of these falls be preserved to the extent possible in any future planning. At this writing, there is a local committee looking into the development of this site, and the Town is supportive of their efforts.

**Industrial Scale Wind:** The State of Vermont Wind Resources Map depicts the greater Wheeler Mountain and May Hill areas as being conducive to commercial or industrial wind power development with "Class 7" wind speeds of up to 18 to 26 mph. Likewise, smaller areas to the north around Barton Mountain are also considered to be favorable with Class 6 and Class 5 wind speeds. The Planning Commission feels that these areas, however, would not be suitable for commercial wind development since May Hill is too near May Pond – Barton Village's surface drinking water supply and residential properties and subject to runoff; Wheeler Mountain is a very popular hiking destination and adjacent to Willoughby State Forest; and, Barton Mountain is the most prominent and scenic mountain in the Town.

**Renewable Resources:** The Town supports the continued development of small-scale (residential) renewable energy resources in the community as long as they do not harm the natural resources and the environment, do not create instability in the regional transmission grid, and do not significantly increase costs for ratepayers in the community.

The Planning Commission recommends that the Town of Barton joins the PACE (Property Assessed Clean Energy) program to facilitate the development of small-scale renewable energy.

Community-scale (or commercial) solar arrays, wind turbines, biomass systems,

and hydroelectric generation facilities require more thoughtful public consideration for siting due to potential impacts on neighboring properties. Proposed projects should address the following goals:

- Generation projects should meet the demands of local customers and utilities;
- Projects should be situated near or adjacent to existing transmission/distribution lines;
- Projects should be screened and set back from adjoining properties to the greatest degree possible;
- Power generated should be affordable (i.e. market rate) and, ideally, benefit local users and ratepayers.

The Planning Commission supports Barton Village's efforts to improve the existing hydro facility located in West Charleston. The Planning Commission also offered its support of the Barton Solar Project proposed along Route 16 near Glover, as the project is located in a designated commercial zone; there will be a positive impact to the Town's taxable base; and support for the facility demonstrated that the town is helping to meet Vermont's renewable energy goals.

Efficiency: The other large energy use in Barton is for thermal heating. Fuel Oil and Propane are the major sources for heating and the costs of these sources can be volatile. As technologies improve, a somewhat lower reliance on petroleum based sources could be gained through the suggested use of alternative sources of energy such as wood pellet stoves, high-efficiency biomass boilers, or geothermal systems. The VT Residential Energy Code is a minimum standard of energy efficiency that applies to virtually all new residential construction, renovations, alterations and repairs in Vermont. Energy code information can be found at:

[publicservice.vermont.gov/energy/ee\\_resbuildingstandards.html](http://publicservice.vermont.gov/energy/ee_resbuildingstandards.html)

Taking advantage of weatherization programs through NETO and grant money currently available through Efficiency Vermont and other State programs would also help to reduce local heating and electric costs.

Wood heats many homes fully or partially, and it is a renewable and maintainable resource. Both Villages sit in valleys so wood smoke pollution should be considered, but continued improvement in wood stove design and the gradual replacement of older units with those incorporating catalytic converters or similar pollution reducing technologies should help to alleviate pollution by wood burning.

Maintaining concentrated growth areas in Barton and Orleans Villages helps to keep electric transmission and distribution costs down. Such growth also helps to minimize car and truck traffic, thus saving on fuel costs.

Car pooling and van pooling are available and should be utilized. As mentioned above, park and ride areas are available in both Barton and Orleans Villages.

Portland Pipeline: In Barton, the Portland pipeline(s) runs along the western side of Crystal Lake and cross the Barton River near the Interstate exit for Barton Village. These are important water resources for Barton and other communities. With the average age of the pipeline(s) being approximately 60 years old, it is important that the pipelines be kept in a safe operating condition to prevent future leaks/spills.

There have been discussions in Barton, the region, and Vermont about the need to establish a position against any project that would reverse the directional flow of the pipeline to accommodate the movement of tar sands oils out of Canada to Portland, Maine. The concern of those advocating for action is that heavier, abrasive tar sands flowing through the pipelines in a direction opposite to the current flow would stress the aging facility.

However, the Town has not seen or heard from the pipeline owner (or developer) of any proposed project that would reverse the flow of oil in the pipeline. The issues of concern that have been raised would certainly be important to local officials and these should be addressed if a project is proposed. Other factors to consider for a recommendation would be the movement of these same materials over highways or rail lines in the community as transportation infrastructure follows lake and rivers.

At the 2014 Barton Town Annual Meeting, an advisory vote of those present showed that a large majority of voters present were opposed to any proposed pipeline reversal project. A recent jurisdictional opinion by the District 7 Environmental Commission is that a plan to reverse the flow of oil in these pipeline(s) would require an Act 250 permit. The Town and Village officials support this and would certainly participate in such an application.

#### f. Recommendations for Public Recreation and Open Space

With additional growth, the two built-up village areas within Barton should each have and maintain outdoor recreation areas to serve all residents in the village areas. Recreation areas would augment the recreational facilities at the school playgrounds in the area. Each area should be easily accessible, within walking distance of the residential area it is designed to serve. The land acquired by Barton Village adjacent to and behind the library should be developed as a community green space as originally proposed at its acquisition.

Recreational facilities at the regional high school should be available for use by area residents, as well. There are several privately owned and operated recreational facilities in the Town of Barton including: a playfield provided by Ethan Allen, the Orleans Country Club, the Barton Golf Club, the Orleans County Fair Grounds, a snowmobile trail network and a rod and gun club. The public use of these facilities through cooperation with private entities should be encouraged.

The municipal buildings in Barton or Orleans could serve as a year-round indoor recreation center(s) for all ages in the community. The opportunity to utilize buildings at the county fairground for indoor winter recreation should also be explored. The village should plan open spaces which are aesthetically and physically beneficial to the community.

Barton's extensive water resources, lakes, ponds, rivers, streams, offer many forms of recreation. Besides these resources being of obvious natural value, they are of great economic value because of tourists, fishermen, boaters, swimmers, and hikers. Every effort should be made to maintain and improve water quality.

Consideration should continue to be given to greater utilization of school properties, municipal buildings and other suitable existing facilities for both indoor and outdoor recreation activities. Efforts to provide for tennis, skating and ski facilities should be encouraged.

g. Recommendations for Schools

Population data and projections of growth would indicate that the present educational facilities of Barton and Orleans Elementary Schools, and Lake Region Union High School, will be more than adequate for the needs of the town over the next five years. The Vermont Department of Education projects that state-wide student enrollment will actually decline over the long term.

Town and Village Officials should consider utilizing Lake Region high school students for community service projects. Students are required to provide a defined number of hours of community service and this could be beneficial for municipalities.

h. Recommendations for Wireless Telecommunication Facilities:

The Town of Barton will generally support local telecommunication (broadband) projects that can demonstrate improvements in reliability, affordability, and better coverage for the town and/or village areas of the community. However, the Town will not support telecommunication facilities that are built on speculation to attract wireless or broadband providers, or telecommunication facilities in excess of 200 ft. in height that would require lighting under FAA regulations. The Town would like to see all telecommunications projects adhere to the requirements of the Town's zoning bylaw, regardless of whether or not the developer chooses to bypass the local permitting process in favor of the Public Service Board's Certificate of Public Good process.

24 V.S.A., Section 4382(10) requires: "*A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of*

*this title. The program should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E) of this title, which provide affordable housing”.*

#### G. HOUSING STATEMENT AND POPULATION DATA:

The total population of the Town of Barton declined over the ten year period from 2,967 persons in 1990 to 2,780 in 2000. From 2000 – 2010, the population increased slightly from 2,780 to 2,810. Other demographic information for the Town and both Villages is as follows:

Table 1: Housing and Affordability

	Barton Village	Orleans Village	Barton Town	Orleans County
<b>Housing demand</b>				
Population, 2010	737	818	2,810	2,7231
# in occupied housing units	736	818	2,743	26,413
...owner occupied	442	538	1,994	20,458
...renter occupied	294	280	749	5,955
Households, 2010	355	349	1,192	11,320
Avg. household size, 2010	2.07	2.34	2.30	2.33
<b>Ability to afford</b>				
Median household income, 2007-2011	\$28,333	\$31,750	\$43,139	\$40,929
Annual avg. wage, 2010 (VDOL)	--	--	\$30,379	\$31,666
Per capita income, 2007-2011	\$20,534	\$17,547	\$20,318	\$21,000
Labor force, 2012 (DET)	--	--	1,550	15,200
Unemployment rate, 2012	--	--	11.4%	7.3%
<b>Housing stock</b>				
Total housing units, 2010	460	399	1,531	16,162
...owner occupied	199	217	830	8,553
...renter occupied	156	132	362	2,767
...vacant units	105	50	339	4,842
Home heating fuel oil/kerosene, 2007-2011	78.5%	74.6%	65.4%	61.6%
<b>Homeownership costs</b>				
Median monthly owner costs, 2007-2011	\$906	\$847	\$912	\$875
...>30% of household income	30.2%	30.9%	32.6%	35.2%
Rental costs >30% of household	54.9%	40.5%	48.4%	57.3%

income				
Pop. For whom poverty status determined, 2007-2011	798	790	2,719	26,445
Below poverty level	123	183	397	4,229
Families below poverty level	23	32	76	724

Source: VT Housing Data – [www.housingdata.org](http://www.housingdata.org)

**Note: More specific population and demographic data on the Town and Villages is available at the following websites: [www.census.gov](http://www.census.gov) or [www.nvda.net](http://www.nvda.net) – select ‘About NVDA’ and ‘Our Towns’.**

The need for housing can be approximated by comparison of population with the number of persons in occupied housing units. In Barton, there were 2810 persons in the community in 2010. Of this number, 2,743 persons were living in occupied housing units of which there were 1,531 units and the average household size was 2.3 persons, so it seems that there is an adequate amount of housing in the Town and Villages.

Of the 1,531 total housing units, 830 were owner-occupied units, 362 were renter-occupied, and 339 units were vacant (primarily, seasonal dwellings). Barton Village had a slightly higher number of renter-occupied units (156) than did Orleans Village (132). Both villages have municipal water and wastewater systems and any new multi-unit structures should be located within either village. Barton also has a greater number of vacant (seasonal) dwellings than Orleans, and this is likely due to Crystal Lake being in Barton Village.

Housing affordability seems to be a significant issue in both of Barton’s villages. While the median household income in Barton was \$43,139, the household incomes in Barton and Orleans were \$28,333 and \$31,750, respectively. Thirty-two percent of Barton’s homeowners spend more than 30 percent of the monthly income on housing costs. This number increases to 48 percent for those who rent their housing (this figure is nearly 55 percent in Barton Village). Based upon demographic data for the period 2007-2011, of the 397 persons in Barton who were determined to be earning below the poverty level, 123 of these individuals were living in Barton Village and 183 were residing in Orleans Village.

The Zoning Bylaw for the Town and Villages does make provisions for the establishment of affordable housing in the community. These provisions include: allowing for accessory dwellings; treatment of mobile homes as single family housing; and guiding multi-family housing toward already-developed areas where municipal infrastructure and goods and services exist.

Given the age of much of the existing housing (and many commercial buildings) in Barton and Orleans Villages, the Town will be supportive of weatherization and energy efficiency efforts that reduce heating costs for owners. The Town would also like to see

the Villages work to reduce utility costs – water, sewer, and electric – to further bring down costs for residents, thereby making housing more affordable.

24 V.S.A., Section 4382(8) requires: “A statement indicating how the plan relates to development trends and plans for adjacent municipalities, areas and the region developed under this title”;

#### I. STATEMENT OF IMPACT OF TOWN PLAN ON SURROUNDING TOWN PLANS & THE REGIONAL PLAN

Barton, with the incorporated villages of Orleans and Barton, is the most populous and developed of those towns whose borders it shares. The historical status of Barton as a retail and industrial hub of its immediate surroundings is well established but over time its prominence has decreased, primarily due to declines in manufacturing and losses in retail development. We are now seeing increased commercial and retail development and employment in the Newport/Derby area (at a distance not too far for many residents to commute. The Planning Commission feels that the overall effect of adoption of the plan on surrounding towns, and plans they have, will be positive. The seven surrounding towns are:

- Albany: As of 2015, no Town Plan or local zoning. NVDA worked with the Town’s Planning Commission on a draft plan, but it is unclear if this will be adopted. Barton and Albany are connected most directly by the East Albany Road. This unpaved route passes by a number of working farms and wooded areas. The intensity and type of development should remain as it exists today.
- Brownington: Recently, Brownington adopted an updated Town Plan in September 2015. The Town has no local zoning. The primary road connecting Barton to Brownington is Route 58. This state highway connects Orleans to Evansville and essentially follows the scenic Willoughby River which originates in Westmore at Lake Willoughby. The Churchill Road – Hinman Settler Road and Tarbox Hill Roads are other routes that connect the communities. Like Albany, the primary land uses in these areas are farming and forestry and this should remain that way for the future.
- Glover: A Town Plan is in effect until October 2016. Glover has no local zoning. Glover village utilizes the Village of Barton’s wastewater treatment facility for sewage treatment. A sewer main line follows state Route 16. The Barton Zoning regulations allow commercial development along this highway up to the Glover town line.
- Irasburg: The Town is just beginning the process of drafting a Town Plan. Barton

is connected to Irasburg by Routes 5 and 58, and also by Lake Region Road (serves the union high school and connects to Route 58). There is some limited commercial development along Route 5 in Irasburg to the northwest of Orleans Village and the I-91 exit 26. Lake Region Road is residential in nature and should remain so into the future. There has been an industrial wind project proposed in Irasburg on Kidder Hill that may impact some adjoining communities.

- Sheffield: The Sheffield Town Plan expired in March 2015. They are in the process of updating the plan. Sheffield has no local zoning. The area bordering the Sheffield – Barton line is rural, wooded upland. The greatest impact Sheffield has on the community is the First Wind project – a 16-turbine industrial wind farm that is very visible from Crystal Lake and the surrounding area. The industrial wind facility can be accessed via Duck Pond Road from Barton Village or from Route 122 in Sheffield. With an awareness that the First Wind project is operating with a Certificate of Public Good issued by the Public Service Board, the Barton Planning Commission would like to see the night-time lighting associated with the project altered from blinking red lights to lights that can be activated by radar once these are approved by the FAA.
- Sutton: Sutton has a Town Plan in effect until October 2016. The Town also has a zoning bylaw in effect that was last revised in 2005. They are in the process of updating their bylaw. The boundary area between Barton and Sutton is very hilly with steep slopes and several wetlands and small ponds right along Route 5 at the point where Route 5 leaves Sutton and enters Barton. Significant developments in this area could have negative environmental impacts on both towns. The Barton Town Plan has categorized this part of Barton as remote land and it should remain so. Land uses permitted in this area by the Barton Zoning Bylaw are limited and the minimum lot size for development in this area is 10 acres. The use requirements of the Barton Zoning Bylaw should also help to mitigate any development impacts of development in this area.
- Westmore: The Town Plan for Westmore is in effect until April 2018. Westmore does have local zoning and this was last revised in 2008. The major road linking Barton to Westmore is VT Route 16, a scenic highway that leaves Barton Village, passing Crystal Lake and Barton Mountain and continuing on to Lake Willoughby. Development along this road should remain primarily residential in nature with working farms and forests. RCT provides regular bus shuttle service between Westmore and Barton, and many seniors from Westmore utilize the Senior Center in Barton Village.

#### Regional Plan:

The NVDA Regional Plan, updated and adopted in August, 2015 and in effect for eight years, identifies Barton as a “Service Center” which is defined as a community with

centers for commerce, services, employment and community life. Service centers are separated by distance from regional urban centers (Newport/Derby and Lyndon/St. Johnsbury) and they do not provide enough employment to be completely self-contained. Service centers provide municipal water and sewer, employ municipal staffs, and are served by state highways. The core of a service center is characterized by relatively dense mixed land uses, containing civic, governmental, commercial, and mixed residential uses. Service centers typically have significant areas for industrial use and development. This is exemplified by the Ethan Allen plant in Orleans and the NVDA industrial park.

The intentions and goals outlined in this plan are also compatible with the NVDA regional plan.

24 V.S.A., Section 4382(a)(11) requires: *“An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth”*.

## J. ECONOMIC DEVELOPMENT

Under the NVDA Regional Plan for the Northeast Kingdom, Barton and Orleans are considered sub-regional service centers due to the fact that they are separated by distance from the two regional urban centers of Newport-Derby and St. Johnsbury-Lyndon. The villages do not provide enough employment to be completely self-contained, so they partly serve as bedroom communities for the larger urban centers.

Service centers provide municipal water and sewer and employ municipal staffs. Limited other government functions like the State’s Transportation Maintenance Garage or Supervisory Union offices may also be carried out in service centers. All service centers in the region are served by at least one state highway (U.S. Route 5, VT Routes 16 and 58 in Barton). The cores of service centers continue to be characterized by relatively dense, mixed-use land developments containing civic, governmental, commercial, and residential uses. Service centers typically have significant areas for industrial use and development. The NVDA-owned industrial park in Orleans is zoned for commercial and industrial development and is also identified as a magnet site for the region’s Foreign Trade Zone.

Both this Plan and the Joint Zoning Bylaw promote and provide for business development in designated village, commercial, and industrial areas. These include Barton and Orleans Villages, commercial areas along state highways, and the Orleans Industrial Park. Home occupations, as defined by VT statute, are allowed in all zoning districts.

Orleans and Barton Village each have available infrastructure for business

development, including municipal water and wastewater systems and electric utilities. High-speed broadband services are readily available in the community through providers like Fairpoint Communications and Comcast. Cellular service in the area continues to improve via providers like Verizon, AT&T, and T-Mobile and this is expected to continue.

Existing Businesses: Ethan Allen is by far the largest manufacturing business in the Town with an estimated 365 employees at their Orleans plant. The company's importance to Orleans Village and the broader community cannot be understated, so retention efforts should be ongoing.

The Town and Villages are also fortunate to have all of the businesses that operate in the community as they provide needed goods and services, employ local workers, and bring dollars into the area. These include local grocery and convenience stores, hardware stores, drug stores, banks, retail stores, auto-related sales and repair businesses, and restaurants and lodging establishments.

Business Opportunities / Needs: The Barton Area Chamber of Commerce, serving Barton and surrounding communities, has undertaken surveys with the assistance of UVM Extension in the recent past to determine what types of businesses and goods and services people would like to see in the community. A *2009 Barton Area Market Survey* was conducted to 1) gather information that would help existing businesses better meet local needs; 2) make information available for entrepreneurs interested in starting a new business; and 3) improve the availability of goods and services to consumers in the local area.

The 2009 survey's results showed that Barton's primary trade area for the residential market is effectively the area between Newport and Lyndon (N-S) and Westmore and Greensboro (E-W), or an approximate 15-minute drive from Barton in any direction. Beyond this and the Newport, Hardwick, and St. Johnsbury – Lyndon market areas begin to have a draw effect.

The survey also revealed that unique, destination-type businesses would likely have a broader market area, and second homeowners, tourists/visitors, and Canadian shoppers represent sizable market segments for Barton. Residents and visitors do have to leave the Barton area for some goods and services – e.g. furniture and home furnishings, electronics and appliances, clothing and shoes, and general merchandise / department store needs. For the full 2009 survey and a Second-homeowner survey that was completed in 2011 contact NVDA or UVM Extension.

The Town of Barton does maintain a flexible revolving loan fund that has been useful for businesses in the community. Applications are reviewed by a local loan fund committee and favorable applications are reviewed and approved by the Select Board.

Also, the Village Center designation program for Vermont does offer historic preservation and code improvement tax credit benefits for eligible commercial properties

with a designated district. Barton Village has a state-designated district. The Planning Commission will work with Orleans Village to apply for village-center designation.

24 V.S.A., Section 4382(a)(12)(A) requires: “A flood resilience plan that:  
(i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and  
(ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments”.

(B) “A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6”.

#### FLOOD RESILIENCY:

##### **A. Existing Conditions**

The Town of Barton lies wholly within the Barton River watershed, which is within the larger Memphremagog Watershed Basin (#17). Waters in the basin support swimming, boating, and fishing and this is certainly true in Barton. Threats to the watershed and these uses include nutrient enrichment (phosphorus), aquatic invasive species (milfoil), alterations to riparian habitat, and illicit discharges (sewage and stormwater).

The ANR Water Quality Management Plan for Basin 17 indicates that stormwater system mapping and illicit discharge detection is a priority action for both Orleans and Barton Villages. Another recommended priority action is to encourage each town in the basin to apply for a Better Backroads Grant to address water quality issues identified by their road review committee. Pageant Park Road in Barton Village is a good candidate for such a grant due to runoff and sedimentation into Crystal Lake.

Infrastructure placed in close proximity to streams and rivers is particularly exposed to damage from flash flooding, bank failure, and stream channel dynamics. The Vermont DEC is in the process of developing “River Corridor” maps for the entire state, which identify both the river channel and the fluvial erosion hazard area associated with the river. For smaller streams that haven’t been included in the river corridor maps, a recommended standard setback is 50 feet. River Corridor maps for Barton have been developed.

NVDA has overlaid FEMA Flood Insurance Rate Maps over base maps developed

for Barton with E-911 points to give an approximate estimate of the number of structures in the Special Flood Hazard Area. While useful for planning considerations, the maps are not suitable for making official determinations.

### **FEMA and NFIP**

In order to be eligible for participation in the National Flood Insurance Program (NFIP), the Town has adopted local flood hazard regulations that meet the minimum federal requirements.

The Federal Emergency Management Agency (FEMA) developed a Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for the Town of Barton, Village of Barton and Village of Orleans. Flood plain, flood ways, drainage areas, peak discharges, river profiles and other technical information has been compiled for the Barton River, Willoughby River, Willoughby Brook, Roaring Brook and the Outlet from Crystal Lake. The Flood Insurance Study was originally completed in 1976, updated in 1984 and 1992. Historical information related to flooding issues can be found in the FIS. Also, you can find what zone your property may be located in by reviewing the FIRM. Zones include A, AE, X and others. FEMA has now develop user friendly online maps to view and print specific information. The maps can also be found in the Town office. has mapped the “Zone A” flood inundation areas in Town, but has not identified base flood elevations.

Since 1990, FEMA has developed a Community Rating System (CRS). The CRS is a voluntary program for recognizing and encouraging community floodplain management activities exceeding the minimum NFIP standards. Each CRS Class improvement produces a 5 percent greater discount on flood insurance premiums for properties in the Special Flood Hazard Area (SFHA). Each year the community would be required to submit an annual recertification which may be cumbersome for a rural community with limited resources. which may allow the community to qualify for discounted flood insurance.

The River Management Program within the Vermont Department of Environmental Conservation (DEC) has prepared model flood hazard regulations for towns in Vermont, that comply with the requirements of NFIP. In addition to setting standards for development within the flood inundation areas mapped by FEMA, the model ordinance also provides standards for development within mapped River Corridors identified by the State. As River Corridor data has not yet been developed for Barton and its incorporated villages, the Planning Commission has not considered the DEC models. This model can be found as a layer on the Natural Resource Atlas located at <http://anrmaps.vermont.gov/websites/anra/>.

## **Emergency Relief and Assistance Fund**

ERAF provides public assistance grants through FEMA to help municipalities repair damaged infrastructure after a presidentially-declared disaster. A 25% non-federal match is required for approved projects, with half of this (12.5% of the total project cost) is typically covered by the State. A rule adopted in 2012 requires that by October 23, 2014, a Town must have four mitigation measures in place in order to be eligible to receive the same level of State funding. The four mitigation measures required are 1) adoption of the Agency of Transportation's Road and Bridge Standards, 2) adoption of flood regulations meeting NFIP standards, 3) adoption of a Local Hazard Mitigation Plan and 4) adoption of a Local Emergency Operations Plan.

When the new ERAF rule becomes effective in October 2014, municipalities can qualify for an increased state match of 70 percent for the non -federal share (or 17.5 percent of the total project cost) by either: 1) maintaining an active rate classification under FEMA's NFIP Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; or 2) adopting a river corridor protection bylaw that meets or exceeds state model regulations and guidelines.

### Goals and Recommended Actions:

- Stream bank setbacks and buffer standards should be based on default geomorphic standards from VT DEC.
- Adopt up to date flood hazard area and river corridor regulations to meet standards in the current Vermont flood hazard area regulation model, and to qualify for Vermont Flood Resilient Communities matching funds.
- Establish and sustain a flood hazard area education and outreach effort to support flood damage mitigation and better insure community residents and property for future flood damage.
- Explore participation in the FEMA Community Rating System (CRS) so as to secure a discount on flood insurance
- Establish clear guidelines to promote appropriate flood mitigation for historic structures in the Special Flood Hazard Area.
- Update the Emergency Operations Plan and All Hazards Mitigation Plan

24 V.S.A., Section 4382(7) requires: “A *recommended program for the implementation of the objectives of the development plan*”;

## H. MUNICIPAL DEVELOPMENT PLAN IMPLEMENTATION

Under 24 VSA §4385(a) and (c), in towns over 2,500 persons, a municipal development plan is adopted after two or more public hearings. In towns over 2,500 persons, and in cities and incorporated villages, the selectmen and/or trustees may adopt a plan after two or more public hearing. In towns that elect to do so, plans may be adopted through Australian ballot. Because Barton has a population in excess of 2,500 persons, Its' citizens voted in 1992 to act as a “rural town” to allow adoption or rejection of a proposed MUNICIPAL DEVELOPMENT PLAN or AMENDMENT by Australian ballot.

### PROPOSED IMPLEMENTATION SCHEDULE FOR THE TOWN PLAN, OBJECTIVES & RECOMMENDATIONS

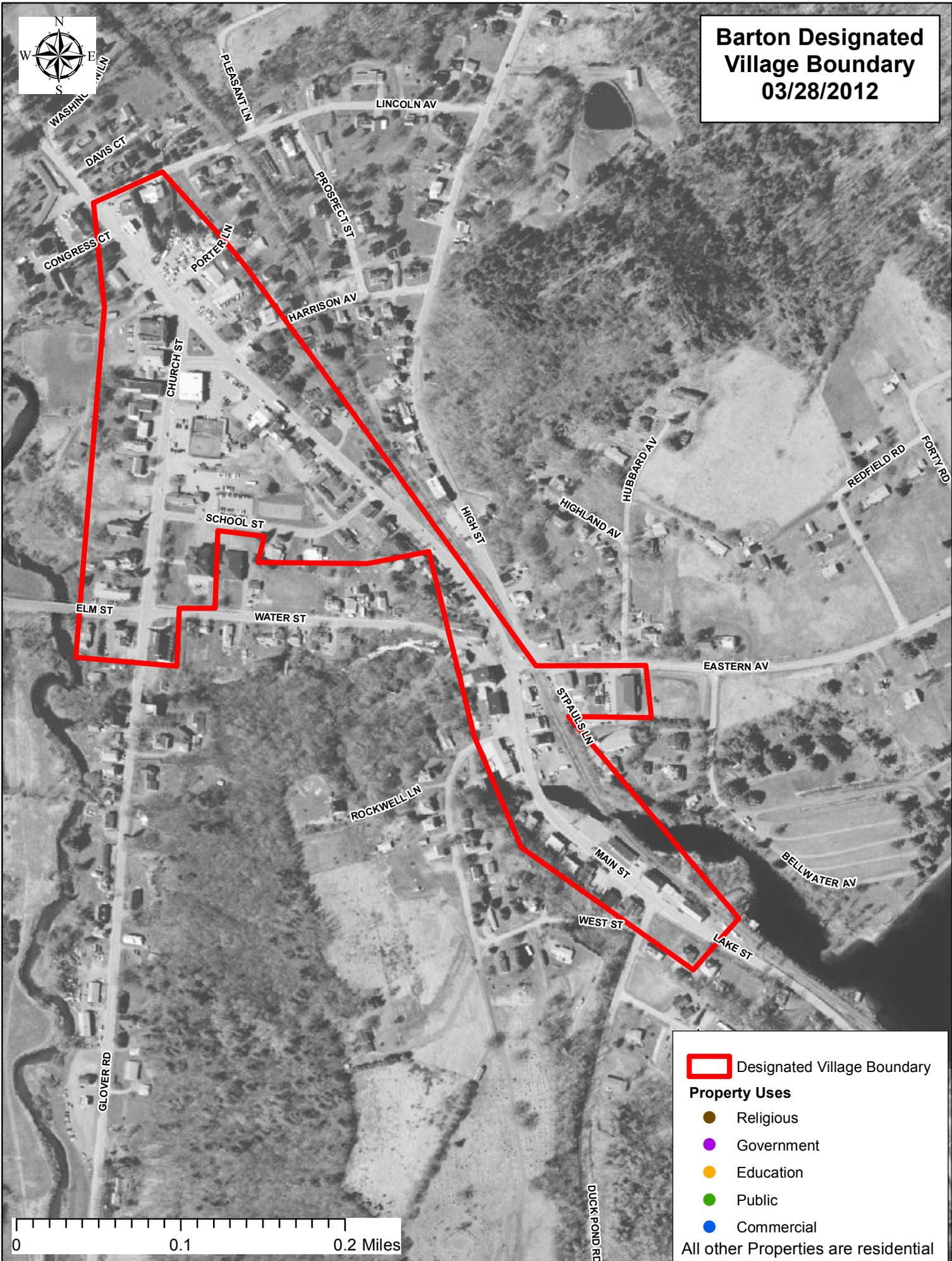
Item	Proposed Implementation Date
Town Plan Approval (Planning Commission/Select Board)	Early 2016
All-Hazards Mitigation Plan (Planning Commission/Selectboard/Trustees)	2015 - 2016
Solid Waste Disposal Policy (Select Board)	2015-2016
PACE Program Promotion (Select Board)	2016

#### NOTE OF MAPS

All of the maps in this plan are reduced versions of the official maps which are available at the Town Clerk’s Office.



**Barton Designated  
Village Boundary  
03/28/2012**



 Designated Village Boundary

**Property Uses**

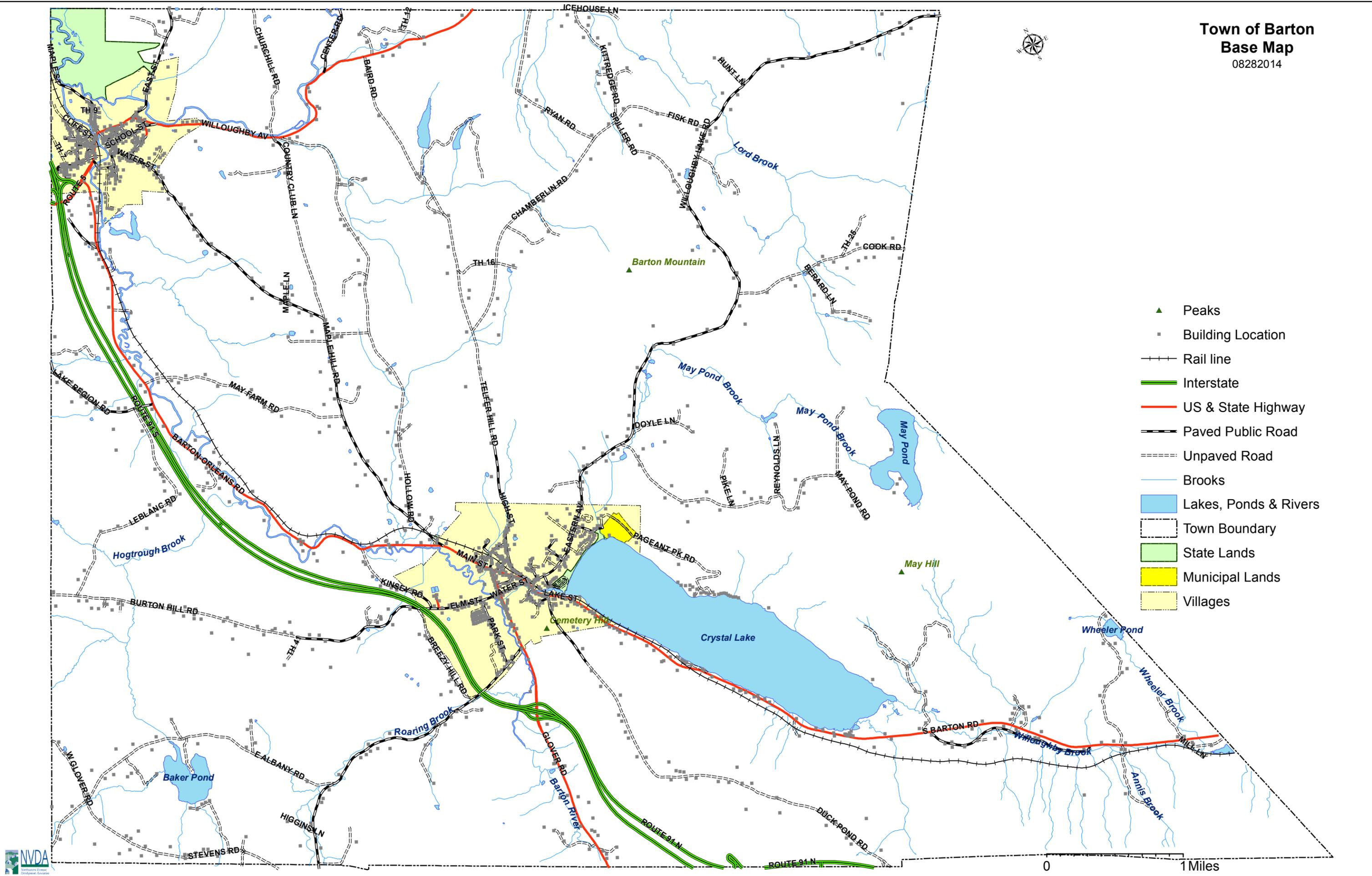
-  Religious
-  Government
-  Education
-  Public
-  Commercial

All other Properties are residential

**Town of Barton  
Base Map**  
08282014



- ▲ Peaks
- Building Location
- +—+— Rail line
- Interstate
- US & State Highway
- Paved Public Road
- - - - - Unpaved Road
- Brooks
- Lakes, Ponds & Rivers
- - - - - Town Boundary
- State Lands
- Municipal Lands
- - - - - Villages



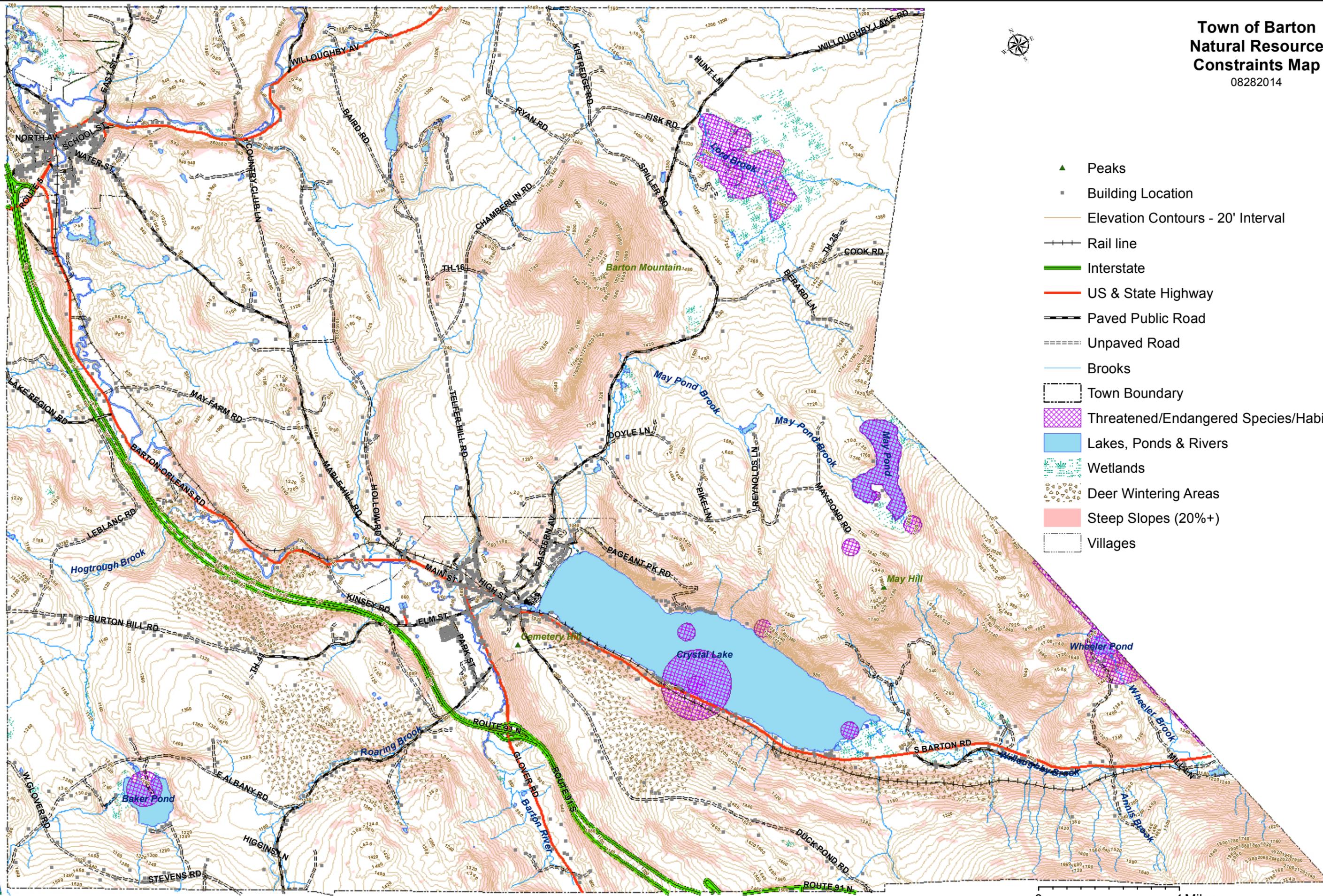
0 1 Miles



**Town of Barton  
Natural Resource  
Constraints Map**  
08282014



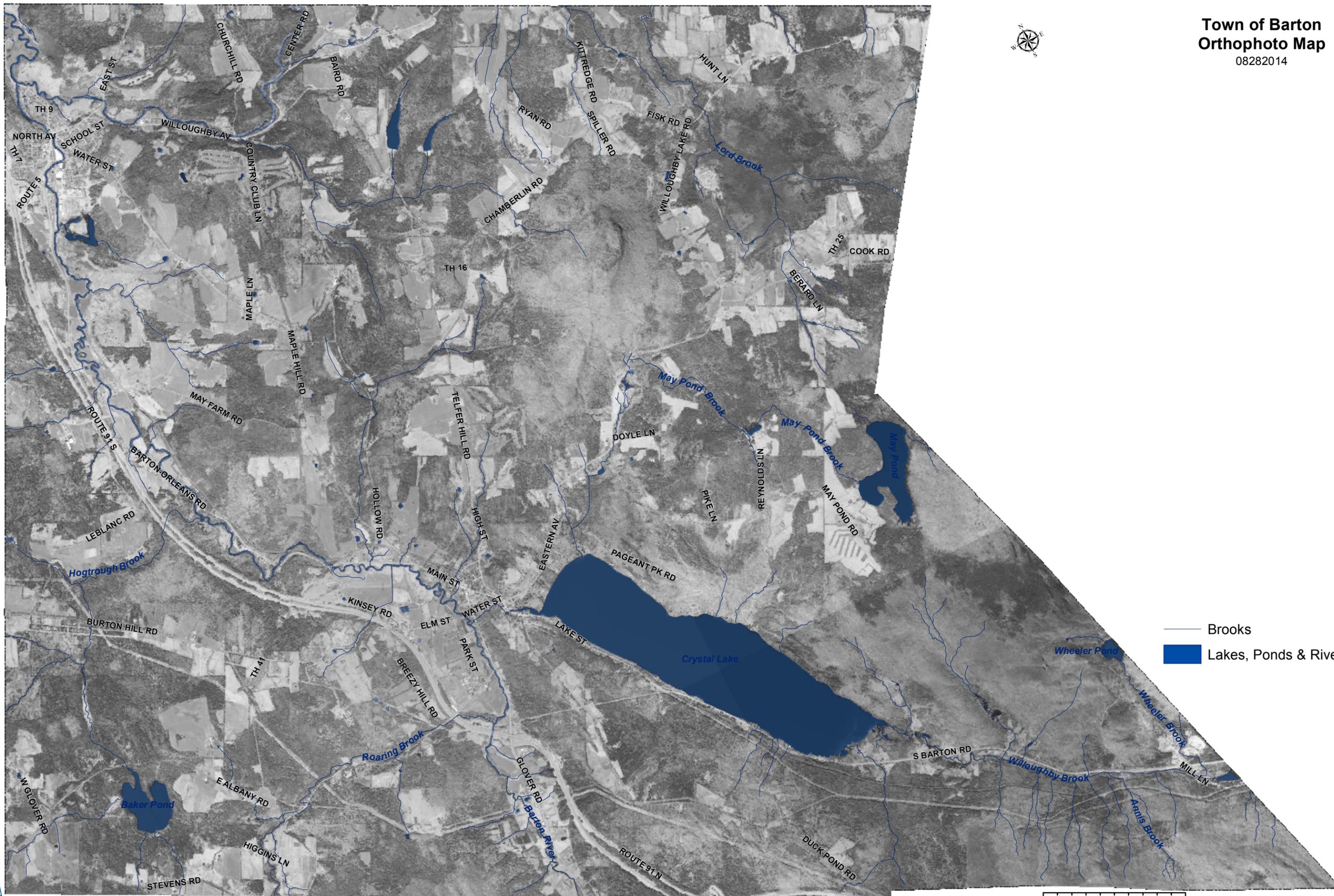
- ▲ Peaks
- Building Location
- Elevation Contours - 20' Interval
- +—+— Rail line
- Interstate
- US & State Highway
- Paved Public Road
- Unpaved Road
- Brooks
- Town Boundary
- ▨ Threatened/Endangered Species/Habitat
- Lakes, Ponds & Rivers
- Wetlands
- Deer Wintering Areas
- Steep Slopes (20%+)
- Villages



0 1 Miles



Town of Barton  
Orthophoto Map  
08282014



- Brooks
- Lakes, Ponds & Rivers

0 1 Miles



# Town of Barton Soils Constraints Map

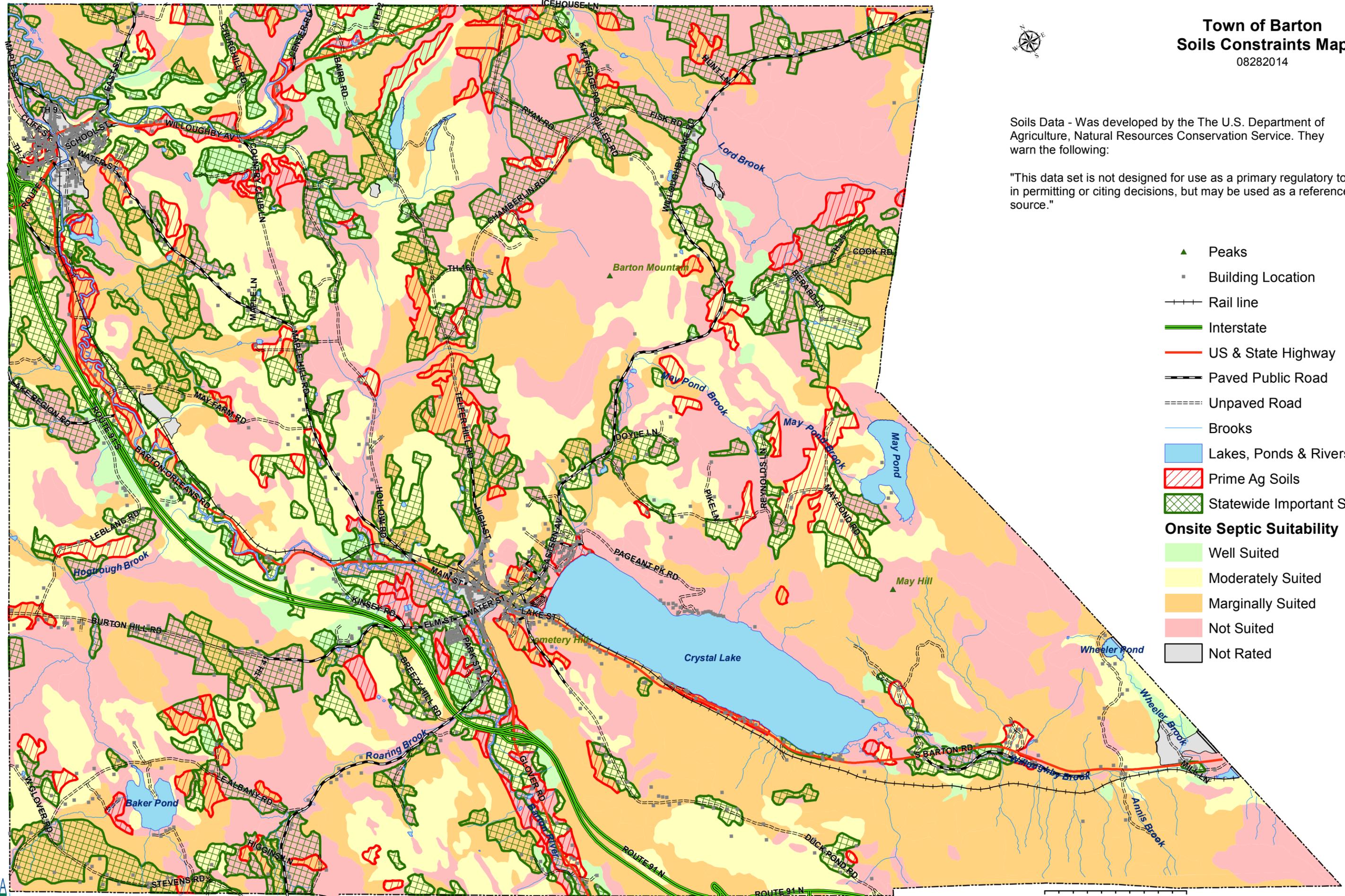
08282014



Soils Data - Was developed by the The U.S. Department of Agriculture, Natural Resources Conservation Service. They warn the following:

"This data set is not designed for use as a primary regulatory tool in permitting or citing decisions, but may be used as a reference source."

- ▲ Peaks
- Building Location
- +—+— Rail line
- Interstate
- US & State Highway
- Paved Public Road
- - - - - Unpaved Road
- Brooks
- Lakes, Ponds & Rivers
- ▨ Prime Ag Soils
- ▩ Statewide Important Soils
- Onsite Septic Suitability**
- Well Suited
- Moderately Suited
- Marginally Suited
- Not Suited
- Not Rated



0 1 Miles

## **Barton Planning Commission Reporting Form for Municipal Plan Amendments**

This report is in accordance with 24 V.S.A. §4384(c) which states:

“When considering an amendment to a plan, the planning commission shall prepare a written report on the proposal. The report shall address the extent to which the plan, as amended, is consistent with the goals established in section 4302 of this title.

The Barton municipal plan was updated to address the newer planning requirements contained in Title 24, Chapter 117. These included an Economic Development element and the more recent Resiliency element. The plan update also reflects changes that have occurred in the Town of Barton and its incorporated villages of Orleans and Barton, including information and data updates.

If the proposal would alter the designation of any land area, the report should cover the following points:

1. The probable impact on the surrounding area, including the effect of any resulting increase in traffic, and the probable impact on the overall pattern of land use.

While land designations that correspond with changes made to the zoning bylaw were renamed and redefined, there would be no impact on adjoining communities, including changes to transportation or land use patterns.

2. The long-term cost or benefit to the municipality, based consideration of the probable impact on:

(A) the municipal tax base; and

It is hoped that the Planning Commission’s intent to steer commercial development and denser development to the incorporated villages of Barton and Orleans will result in a growing taxable base in each village.

(B) the need for public facilities;

The Planning Commission does not expect a need for new public facilities, but does hope to see greater utilization of existing facilities in the community(ies), including municipal water, wastewater, and electric systems.

3. The amount of vacant land which is:

(A) already subject to the proposed new designation; and

N/A

(B) actually available for that purpose, and the need for additional land for that purpose.

N/A

4. The suitability of the area in question for the proposed purpose, after consideration of:
- (A) appropriate alternative locations;
  - (B) alternative uses for the area under consideration; and
  - (C) the probable impact of the proposed change on other areas similarly designated

Both Barton and Orleans Villages have the land resources to accommodate additional, denser development. Similarly, each village has excess capacity in their water, wastewater, and electric systems to accommodate new growth.

5. The appropriateness of the size and boundaries of the area proposed for change, with respect to the area required for the proposed use, land capability and existing development in the area.”

Both Barton and Orleans Villages have the land resources to accommodate additional, denser development. Similarly, each village has excess capacity in their water, wastewater, and electric systems to accommodate new growth.

## **Please Note:**

- ❖ The planning commission must hold at least one public hearing within the municipality after public notice on any proposed plan or amendment.
- ❖ At least **30** days prior to the first hearing, a copy of the proposed plan or amendment and the written report must be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
  1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;
  2. the executive director of the regional planning commission of the area in which the municipality is located;
  3. the department of housing and community affairs within the agency of commerce and community development; and
  4. business, conservation, low income advocacy and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.
- ❖ The planning commission may make revisions to the proposed plan or amendment and to any written report, and must thereafter submit the proposed plan or amendment and any written report to the legislative body of the municipality.
- ❖ If the legislative body changes any part of the proposed plan, the planning commission must submit to the legislative body at or prior to the public hearing a report that analyzes the extent to which the changed proposal, when taken together with the rest of the plan, is consistent with the legislative goals established in 24 V.S.A. §4302.
- ❖ Simultaneously with the submission, the planning commission must file with the clerk of the municipality a copy of the proposed plan or amendment, and any written report, for public review.

## **Barton Planning Commission Reporting Form for Municipal Bylaw Amendments**

This report is in accordance with 24 V.S.A. §4441 (c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide(:

(A) brief explanation of the proposed bylaw, amendment, or repeal and ...include a statement of purpose as required for notice under section §4444 of this title,

The joint zoning bylaw for the Town of Barton, Barton Village, and Orleans Village was amended to reflect changes made to the municipal plan (consistency). The most significant changes were the removal of some commercial districts, a reduction in the amount of industrial land, and revising the uses allowed in any particular zoning district in a manner that steers commercial development toward the existing villages of Barton and Orleans where municipal water and wastewater systems exist.

(A)nd shall include findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:

The amendments described above are consistent with changes that were also made to the municipal plan.

2. Is compatible with the proposed future land uses and densities of the municipal plan:

The amendments described above are consistent with changes that were also made to the municipal plan.

3. Carries out, as applicable, any specific proposals for any planned community facilities.”

Denser development patterns in the village areas will make better use of existing community facilities in Barton and Orleans Villages.

**Please Note:**

- ❖ The planning commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment or repeal and;
- ❖ At least **15** days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
  1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that abutting municipality;
  2. the executive director of the regional planning commission of the area in which the municipality is located;
  3. the department of housing and community affairs within the agency of commerce and community development.
- ❖ The planning commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the legislative body of the municipality.
- ❖ Simultaneously, with the submission, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw, amendment, or repeal, and the written report for public review.

**JOINT ZONING BYLAW**

For

**TOWN OF BARTON**

**BARTON VILLAGE**

**ORLEANS VILLAGE**



Amended: \_\_\_\_\_ 2016

Planning Commission Hearings: \_\_\_\_\_

Select Board Hearings: \_\_\_\_\_

Adopted by the Barton Town Selectboard: \_\_\_\_\_

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ZONING MAPS:

Town of Barton  
Village of Barton  
Village of Orleans

\*This document and the associated zoning maps were updated with the assistance of a Municipal Planning Grant award from the Vermont Agency of Commerce and Community Development.

## **ART 1: ENACTMENT AND INTENT**

### **Sec 101: Enactment**

In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117 (as revised through 2013), hereinafter referred to as the "Act", there is hereby established, pursuant to 24 VSA, Section 4401 of the Act, a zoning bylaw for the Town of Barton, and the incorporated Villages of Barton and Orleans, which is set forth in the text and maps that constitutes this bylaw. This bylaw shall be known and cited as the "Joint Zoning Bylaw for the Town of Barton, Barton Village and Orleans Village".

### **Sec 102: Intent**

It is the intent of this zoning bylaw to provide for orderly community growth and to further the purposes and goals established in 24 VSA, Section 4302 of the Act and the Barton Town Plan.

## **ART 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS**

### **Sec 201: Zoning Maps and Districts - All districts altered and renamed.**

The zoning maps, officially entitled "Zoning Maps for the Town of Barton, Barton Village, and Orleans Village", are hereby adopted as part of this bylaw. The zoning maps correspond to the future land use maps of the Town Plan. The zoning maps show a division of the town and villages into the following districts:

- Natural Areas (NA)
- Low Density (LD)
- Medium Density (MD)
- High Density (HD)
- Mixed Use (MU)
- Industrial (I)

### **Sec 202: Copies of Zoning Maps - Zoning Maps Updated**

Regardless of the existence of other printed copies of the zoning map(s), which from time to time may be made or published, the official zoning maps, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the town.

### **Sec 203: District Boundaries**

District boundaries shown within the lines of roads, streams and transportation rights-of-ways shall be deemed to follow the center-lines. The abandonment of roads shall not affect the location of district boundaries. When the Administrative Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning maps, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Development Review Board shall interpret the location of the district boundary with reference to the scale of the zoning maps and the purposes set forth in all relevant provisions of this bylaw.

**Sec 204: District Objectives and Land Use Controls**

The tables herein, designated 205.01 through 205.07 inclusive, establish the objectives of each of the districts hereby established and the provisions of this bylaw that apply respectively in each district. Any use designated as a "Permitted Use" in the table relating to a particular district may be commenced in such district pursuant to Section 206 of this bylaw. Any use designated as a "Conditional Use" in the table relating to a particular district may be commenced in such district pursuant to Section 207 of this bylaw.

**Sec 205: Application of Regulations****Sec 205.01: Land and Building Regulations**

No land shall hereafter be occupied and, no building or part thereof shall hereafter be occupied, erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

No building shall be erected or altered to have narrower or smaller rear yards, front yards, or side yards; than is specified herein for the district in which such building is located. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this bylaw shall be included as a yard or other open space similarly required for another building.

**Sec 205.02 Limitations of this Bylaw – *Bylaw Limitations amended to agree with VT statute.***

In accordance with 24 VSA § 4413. *Limitations on municipal bylaws:*

(a) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(b) This bylaw shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

(c) Except as otherwise provided by this section and by 10 V.S.A. § 1976, if this bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

(d) This bylaw shall not regulate accepted agricultural and silviculture (forestry) practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

(1) For purposes of this section, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

(2) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the secretary of agriculture, food and markets. No municipal permit for a farm structure shall be required. The notification shall be in writing and shall contain a sketch of the proposed structure including the setbacks from adjoining property lines and road right-of-ways.

e) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

f) Except as necessary to ensure compliance with the National Flood Insurance Program, this bylaw shall not regulate any of the following:

(1) An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.

(2) The following improvements associated with the construction or installation of a communications line:

(a) The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

(b) The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

g) Communications antennae and facilities.

(1) In accordance with 24 V.S.A., Section 4412 (8)(A), except to the extent bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, no permit shall be required for placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's

premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

(2) If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, nonprofit, or public purposes, it shall not be regulated under this chapter if it is located on a structure located within the boundaries of a downhill ski area and permitted under this chapter. For the purposes of this subdivision, "downhill ski area" means an area with trails for downhill skiing served by one or more ski lifts and any other areas within the boundaries of the ski area and open to the public for winter sports.

(3) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Service Board according to the provisions of that section.

(4) A municipality may regulate communications towers, antennae, and related facilities in its bylaws provided that such regulations do not have the purpose or effect of being inconsistent with subdivisions (1) through (3) of this subdivision (g).

### **Sec 205.03 Uses Not Requiring Permits**

The following uses do not require a zoning application or permit:

Fences 8 ft. high or lower

Mailboxes

Pet enclosures (64 sq. ft. or less)

Retaining walls

Residential handicap access ramps

Storage or utility sheds (80 sq. ft. or less) – one per parcel

Tree houses

Yard sales

**Table 205.01: Natural Areas**

**Purpose:**

This category includes land generally characterized by poor or limited road access, thin or poor soils, steep topographic conditions and remoteness from existing concentrated settlement. The development of lands in this category could cause undue damage to the environment by the extension of roads and public utilities necessary to serve the area. Further, the burden of road or public utility maintenance could become an undue expense to the owner, future owner, public utilities, and the town. For this reason, standard lot size in this district (10-acres or greater) will be larger than any other district. The remote district also includes a large majority of the towns' wildlife habitat, forestry and agricultural resources, source protection areas (i.e. wellheads), including headwaters of high quality streams and brooks. All of these natural resources are best preserved by minimal or limited development.

While the general development of land characterized by limitations as defined for "natural areas" is discouraged, it is recognized that isolated areas may exist within this zoning district, which may be better suited for development than the balance of the property. The town encourages landowners to utilize these areas if the proposed development results in less environmental impact and utilities burden than what would result if the land were developed within the normal dimensional requirements of the district.

The suitability of these areas for development must be demonstrated by the landowner through meeting reasonable performance development standards for this district as reviewed through either conditional use review.

The "natural areas" category includes most of the southern half of the Town around Crystal Lake, Wheeler Mountain, May Pond, and Barton Mountain. There are also natural area designations around Baker Pond and the Barton and Willoughby Rivers.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

*Note: Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.*

**Permitted Uses:**

1. Accessory use, structure	2. Agriculture (sec. 205.02)
3. Dwelling, single family	4. Forestry (sec. 205.02)
5. *Home occupation	6. <i>Recreational Vehicle (Seasonal Use)</i>
7. *Essential Services (See definition)	8. Recreation, Outdoors

**Conditional Uses:**

1. Earth resources extraction	2. Renewable Energy Facility (also See Sec. 331).
3. Telecommunications Facilities (See Sec. 319)	

Lot area, acres:	10
Lot width, feet:	400
Lot depth, feet:	400
** Front yard, feet:	50
**Side yard, feet:	50
**Rear yard, feet:	50
Maximum building height, feet:	35

\* Requires Site Plan Review

\*\* In no case less than 25 ft. to the front property line or Right of Way.

**Table 205.02: Low Density**

Purpose:

The “low density” district is designed for agriculture and forestry enterprises, low-density residential development, limited commercial development along Class 2 highways only, and other non-intensive uses of the land. Low density areas are designated where dwelling units will be placed on lots of at least five (5) acres and will not be provided with municipal sewer or water in the foreseeable future. Development in this district will be buffered by existing trees and topography, so as to promote the current rural setting while at the same time providing an atmosphere of privacy within a reasonable distance to the central more populated areas of the Town.

The “Low Density” district is the largest category of land use in the Town. It includes most of the northern half of the Town between the villages.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

*Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.*

Permitted Uses:

1. Accessory use, structure	2. Accessory dwelling (See sec. 337)
3. Agriculture (See sec. 205.02)	4. Dwelling, single family
5. Dwelling, two family	6. *Family Child Care (See Sec. 339)
7. Forestry (See sec. 205.02)	8. *Home Occupation

Conditional Uses:

1. Bed & Breakfast	2. Cemetery
3. Contractor Yard	4. Earth Resource Extraction
5. Essential Services (See definition)	6. Food Establishment

7. Fuel Storage	8. Kennel
9. Lodge or Club	10. Planned Unit Development, including: (See Sec. 325) a. Campground b. <i>Recreational Vehicle Park</i>
11. Recreation, Indoor or Outdoor	12. Renewable Energy Facilities (also See Sec. 331)
13. Residential Care or Group Home (See Sec. 338)	14. Sawmill
15. Telecommunication Facilities (See Sec. 319)	

\* Requires site plan review and approval by the Development Review Board.

Minimum Area and Dimensional Requirements:

Lot area, acres:	5
Lot width, feet:	300
Lot depth, feet:	300
Front yard, feet:	50
Side yard, feet:	20
Rear yard, feet:	20
Maximum building height, feet:	35

**Table 205.03: Medium Density**

Purpose:

The designation of the “Medium Density” district hinges primarily upon current availability and the designation of feasible (future) extensions of sewer and water utilities and proximity to the existing villages of Barton and Orleans. The existing settlement patterns and the transportation networks support denser development in these areas.

The “Medium Density” district will contribute towards the growth of built up areas which have already been developed.

The areas proposed for this category are those in which Municipal sewer and water facilities are most feasible. Compact development is by far the most economical and efficient method for providing these municipal type services.

Lands in the “Medium Density” district are primarily limited to lands adjacent to the incorporated limits of Orleans Village and Barton Village as these areas are served by exiting municipal sewer and water, or the ability to extend services is reasonable. The district extends from each of the village centers, making access by walking or bicycling reasonable.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

*Note: Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.*

Permitted Uses:

1. Dwelling, single family	2. Dwelling, two-family
3. Accessory use, structure	4. Accessory dwelling (See sec. 337)
5. Agriculture (See Sec. 205.02)	6. *Essential Services (See definition)
7. Forestry (See Sec. 205.02)	8. *Family Child Care (See Sec. 339)
9. Home Occupation	10. Planned Unit Development (See Sec. 325) a. Mobile Home Park b. Recreational Vehicle Park c. Campground
11 *Religious Institution	

Conditional Uses:

1. Animal Hospital	2. Auto Service Station
3. Bed and Breakfast	4. Car Wash
5. Contractor Yard	6. Food Establishment
7. Health Care Facility	8. Heavy Equipment Sales and Service
9. Industry, Light	10. Kennel
11. Lodging Facility	12. Motor Vehicle Sales and Service
13. Multi-family Dwelling	14. Personal/Professional Service
15. Recreation, Indoor or Outdoor	16. Residential Care or Group Home
17. Retail Store	18. Renewable Energy Facilities (also See Sec.331)
19. School [See Sec. 205.02(a)(2)]	20. Telecommunications Facility
21. Warehouse	22. Wholesale Business

\*Requires site plan review and approval by the Development Review Board

Minimum Area and Dimensional Requirements:

Lot classification	A	B	C
Lot area, acres:	0.5	1.0	2.0
Lot width, feet:	90	100	200
Lot depth, feet:	80	100	200
** Front yard, feet:	50	50	50
Side yard, feet:	10	15	15
Rear yard, feet:	10	15	15
Max. building height, ft:	35	35	35

\*\* In no case less than 25' from the front lot line or right-of-way.

CLASS DESCRIPTIONS:

- A. Off-lot water supply AND sewage disposal.
- B. Off-lot water supply OR sewage disposal.
- C. On-lot water supply AND sewage disposal.

**Table 205.04: High Density**

Purpose:

The 'High Density' district is designed to be the location for the most intense levels of residential development in the Town. Again, this is primarily limited to the incorporated Village areas in keeping with the State's goal of compact, dense villages surrounded by less-developed areas and working lands. It is contemplated that dense residential and limited commercial development will be located in these village areas. Sewer, water, and electric utilities are readily available and the mixed-use business or industrial districts are nearby.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

*Note: Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.*

Permitted Uses:

1. Accessory use, structure. Dwelling, single family.	2. Accessory dwelling (See sec. 337)
4. *Dwelling, Multi-Family.	3. Dwelling, two-family.
6. *Family Child Care Home or Facility (See Sec. 339)	5. *Essential Services (See definition).
8. *Personal and Professional Services.	7. Home Occupation.
10. *Religious Institution.	9. Planned Unit Development (See Sec. 325) a. Mobile Home Park
	11. Residential Care or Group Home (See Sec. 338)

Conditional Uses:

1. Bed and Breakfast	2. Retail Store
3. Industry, Light	4. Lodge or Club
5. Lodging Facility	6. Renewable Energy Facilities (also See Sec. 331)

\* Requires site plan review and approval by the Development Review Board.

Minimum Area and Dimensional Requirements:

- Lot area, acres: 0.162 (7,000 sf)
- Lot width, feet: 90
- Lot depth, feet: 80
- \*\* Front yard, feet: 45
- Side yard, feet: 5
- Rear yard, feet: 5
- Max. building height, ft: 35

\*\* Unless the lot is an existing small lot or the building is within an "infill" of existing building setback lines.

**Table 205.05: “Mixed Use”**

Designated ‘Mixed Use’ areas are intended to provide for a reasonable level of commerce, employment, access to goods and services, and housing in the Town and Villages. Mixed Use areas are located within both villages, an area along Route 5 south of Barton Village, and along Route 16 from the I-91 interchange to the Glover town line.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

Note: Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.

Permitted Uses:

1. Accessory use or structure	2. *Animal Hospital
3. *Auto Service Station	4. *Lounge
5. *Bank	6. *Car Wash
7. *Commercial and Fraternal Accommodations	8. Dwelling, Single Family
9. Dwelling, Two Family.	10. Dwelling, Multi-Family
11. *Essential Services (See definition).	12. Family Child Care (See Sec. 339)
13. *Food Establishment.	14. *Freight Terminal.
15. *Health Care Facility.	16. *Heavy Equipment Sales and Service.
17. Home Occupation.	18. *Kennel.
19. *Light Industry and Manufacturing.	20. *Museum
21. *Motor Vehicle Sales and Service.	22. *Parking Lot.
23. *Personal and Professional Services.	24. *Recreation, Indoor or Outdoor.
25. *Recycling Facility and redemption.	26. *Religious Institution.
27. *Retail Business/Store.	28. *Residential Care or Group Home (See Sec. 338).
29. *School.	30. *Service and Repair
31. *Theater	32. *Warehouse.
33. *Wholesale Business.	

Conditional Uses:

1. Bar (Lounge)	2. Bed and Breakfast
3. Contractor Yard.	4. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec. 332).
5. Fuel Storage	6. Mobile Home Park

\* Requires site plan review and approval by the Development Review Board.

Minimum Area and Dimensional Requirements:

Lot area, acres:	0.5
Lot width, feet:	50
Lot depth, feet:	80
** Front yard, feet:	40
Side yard, feet:	5
Rear yard, feet:	5
Max. building height, ft:	35

\*\* Unless the lot is an existing small lot or the building is within a "infill" of existing building setback lines.

### **Table 205.06: Industrial**

#### **Purpose:**

Industrial areas are designated in the Town based on existing settlement patterns, facilities and services. It is important that industry be located so as to take advantage of investments that have been made over time and take advantage of readily available infrastructure, while minimizing potential negative impacts upon other land uses (e.g. residential or commercial uses). In permitting industrial uses, the benefit to the project area must be weighed against the effects industrial development can have upon the economic balance and character of the community.

There are existing industrial areas in and near Orleans Village. There should be no further industrial expansion northward within the Village limits because of the existing patterns of residential and commercial development. A continuation of the Industrial district is located south of Orleans Village along Route 5. Recently, there has been a new freight rail siding installed in this area for an agricultural enterprise, and the Town's recycling center is located here as well.

The Orleans Industrial Park, located south and west of Route 5 is designated as an industrial area. The park is approximately 28 acres in size. Almost thirty years since its inception, only three established businesses have set up operations within the park. The vast majority of acreage available within the park (22.8 acres) remains vacant. It is generally believed that the park has good commercial and industrial potential since it borders upon, and has easy access to Interstate 91, and is within close proximity of an established state-owned rail line which runs through Orleans Village. Since the park is located west of the center of the village, it is not contiguous with any residential concentrations within the village. Local officials and development organizations should increase their efforts to encourage the commercial development of this asset. In March 2013, the Orleans industrial park was designated as a Magnet Site for the region's official Foreign Trade Zone (FTZ) designation. Importing and manufacturing businesses that locate within the site may be eligible for reductions in customs fees, duties, and tariffs under FTZ regulations. Warehousing and distribution operations may receive FTZ benefits immediately upon setting up.

Commercial Development on parcels greater than 1 acre and residential subdivisions of more than 5 lots are regulated by Vermont Land Use Permits which require significant agricultural soil conservation, wetland setbacks, stream and river setbacks and stormwater treatment when impervious is greater than 1 acre.

Note: Permitted and Conditional Uses listed in other districts but not listed below shall be prohibited for this district.

Permitted Uses:

1. *Accessory use, structure	2. *Contractor yard
3. *Essential Services (See Definition)	4. *Freight Terminal
5. *Fuel Storage.	6. *Heavy Equipment Sales, Service, and Repair.
7. *Manufacturing	8. *Industry, Light.
9. *Industry, Major.	10. *Telecommunication Facilities.
11. Renewable Energy Facilities.	12. *Warehouse.

\* Requires site plan approval by the Development Review Board.

Minimum Area and Dimensional Requirements:

Lot area, acres:	1
Lot frontage, feet:	100
Lot depth, feet:	100
Front yard, feet:	30
Side yard, feet:	15
Rear yard, feet:	10
Maximum building height, feet:	40

**Table 205.07: Shore Land Area Overlay**

Purpose:

This overlay district provides for the development, promotion, and protection of shoreland surrounding Crystal Lake, May Pond, Baker Pond, and Wheeler Pond. The uses, dimensional requirements and permitted densities of this district are determined by the underlying zoning district and by the availability of utilities and supporting infrastructure to allow development and other uses to occur in a manner which does not adversely affect the character of the underlying district, yet protects the important water resource.

The designated Shore Land Area includes all lands within 250 feet of lakes and ponds greater than 10 acres in size. As of July 1, 2014, jurisdiction for developments proposed in these areas was assumed by the State of Vermont\*. Review by the Vermont Agency of Natural Resources is required before a state permit can be issued. The Zoning Administrator and DRB shall be provided a copy of the state permit, or evidence indicating that no state permit is required. *\*Note – If a road or highway exists within the designated 250 foot shore land area, a state permit may not be required.*

The State of Vermont Agency of Natural Resources Environmental Protection Rules, Chapter 1, *Wastewater System and Potable Water Supply Rules*, Effective September 29, 2007 govern all on-site water and wastewater systems in Vermont. All applicants shall submit the appropriate state permits along with any application for development. Plans shall include a certification from the designer, stating design compliance with said rules.

All development within 250 ft. of shorelines will require Development Review Board review for compliance with the "Special Provisions for Development of Shoreline Buffer Zones" incorporated within the bylaw, which provide for the protection of water quality.

**"Special Provisions For Development of Shoreline Buffer Zones":**

1. Applications for non-residential development shall include and receive DRB approval of detailed plans providing for treatment and/or settlement of stormwater runoff from parking and hard surface areas. Parking areas shall be located no closer than 25 ft. from the shoreline. Plans shall also include provisions for screening of buildings, parking areas, fences, and stored materials. Such plans shall also incorporate the preservation of existing trees whenever possible and appropriate.
2. Uses which, by their nature, are sources of undue adverse noise so as to unreasonably interfere with recreational uses of the adjacent water body shall not be permitted.
3. Exterior lighting shall be designed and located in such a manner so as to not cause undue glare onto the adjacent water body.
4. For all new non-residential uses within the buffer zone, the DRB may incorporate appropriate conditions necessary to reasonably protect the water quality of the adjacent water body.

**Sec 206: Permitted Uses**

Permitted uses are those uses that are allowed, providing the standards established by this bylaw are met. Subsequent to securing any required site plan approval, unless a variance, waiver, or other action by the Development Review Board is required, the necessary permit may be issued by the Administrative Officer.

**Sec 207: Conditional Uses**

**207.01** Permitted upon issuance of a conditional use permit are those uses that may be allowed by the Development Review Board as provided for in 24 VSA Section 4414(3) of the Act after public notice and hearing. In order for the permit to be granted the proposed use shall not have an undue adverse effect on:

- A. The capacity of existing or planned community facilities;
- B. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.;
- C. Traffic on roads and highways in the vicinity;
- D. Bylaws then in effect, and;
- E. The utilization of renewable energy resources.

**207.02** In permitting a conditional use, the Development Review Board may impose, in addition to the regulations and standards expressly specified by this bylaw, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood, or the municipality as a whole. These conditions may include the following:

- A. Increasing the required lot size or yard dimensions in order to protect adjacent properties.
- B. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
- C. Controlling the location and number of vehicular access points to the property.
- D. Increasing the street width.
- E. Increasing the number of off-street parking or loading spaces required.
- F. Limiting the number, location and size of signs.
- G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
- H. Specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use.
- I. Requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.

**207.03** As a condition of the grant of a conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and this zoning bylaw.

**207.04** A change in use, expansion, reduction, or alteration of structures or uses which are designated as conditional uses within the district in which they are located and are existing therein, prior to the effective date of this bylaw, shall conform to all regulations herein pertaining to conditional uses.

## **ART 3: GENERAL PROVISIONS**

### **300: SUBDIVISIONS:**

Subdivisions are a permitted use in all zoning districts. No subdivision, as defined under these bylaws, which results in the creation of one or more building or non-building lot(s) shall be created without first receiving a subdivision permit under the provisions of this bylaw. Applications for subdivision shall comply with the application requirements under Section 324 of this bylaw. Subdivisions shall be reviewed through the Site Plan review process described under Section 324.02 of this bylaw.

#### **301: Pre-existing Subdivisions:**

In the event that a single record deed is the sole or primary evidence of subdivision, such deed shall be assumed to have conveyed a single lot subject to compliance with section 302 of this bylaw. Existing small lots located in the "Shore Land Overlay" district must provide evidence and plans for proper water supply and wastewater disposal facilities to serve the subdivision. Proper evidence shall include all necessary designs prepared by qualified individuals in addition to any other supporting evidence as required by the Development Review Board.

No lot of a pre-existing subdivision shall be reduced from its' original area, shape or location unless combined with additional contiguous land to form a(an):

1. Conforming lot or lots; or,
2. Enlarged, non-conforming lot or lots, provided that each new resulting lot must incorporate all the land area of at least one pre-existing substandard lot.

#### **Sec 302: Existing Small Lots**

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre in size or has a minimum width or depth dimension of at least 40 feet.

#### **Sec 303: Frontage on, or Access to, Public Roads or Waters**

No land development may be permitted which does not have adequate means of access, either frontage on a maintained public road (Class 1, 2, 3) or, with the approval of the Development Review Board granted in accordance with Section 324 of the bylaw, access by means of a permanent easement or right of way to such a public road or public waters. Access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the Development Review Board may require a right-of-way up to 50 feet in width to ensure public safety and orderly development. Access onto a Town Road requires a permit from the Town Select Board. Access onto a state highway requires a permit from the Vermont Agency of Transportation. *A copy of the Letter of Intent to apply for a state permit shall be provided to the Administrative Officer.*

**Sec 304: Protection of Home Occupations\***

No regulations may infringe upon the right of any resident to use a minor portion (50% or less) of a dwelling or an accessory structure for an occupation which (\*see definition for Home Occupation):

1. Is consistent with uses normally seen in residential areas.
2. Does not employ more than two persons in addition to the owner and the owner's immediate family.
3. Does not change the character of the residential area in which the dwelling is located.
4. Activity is conducted wholly within and occupies a minor portion of the dwelling or accessory structure; no outside storage shall be permitted.
5. No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, light, or glare shall be produced by the home occupation.

Where it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader use regulations as determined by the district in which the parcel is located.

**Sec 305: Lots in Two Zoning Districts**

Where a zoning district boundary line divides a lot of record at the time such district boundary line is adopted, the regulations for the district in which the majority of the lot lies shall apply, provided that the lot has frontage on a street or right-of-way in that district. . Otherwise, the regulations for the more restrictive district shall apply.

**Sec 306: Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage, or other requirements of this bylaw shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is condemned or conveyed for a public purpose.

**Sec 307: Required Area or Yards**

Space required under this bylaw to satisfy yard, area, or other open space requirements in relation to one building shall not be used to satisfy the same requirements for any other building.

**Sec 308: Projections into Yards**

**308.1** All structures, whether attached to the principle structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side, or rear yard setback.

**308.2** The following structures are exempt from the permitting and setback requirements of this zoning bylaw: Fences 8 ft. high or lower; Mailboxes; Pet enclosures (64 sq. ft. or less); Retaining walls; Residential handicap access ramps; Storage or utility sheds (80 sq. ft. or less); and, Tree houses. However, their location shall be subject to the review and approval of the Development Review Board (DRB) if part of a larger project under site plan or conditional use review. Under this Section, with the exception of mailboxes and Essential Service structures approved by the

DRB, said structures shall not be located within the Town or Village road or highway right-of-way:

### **Sec 309: Yards on Corner Lots**

For any lot located at the intersection of two streets with frontage on each of them, only one front yard shall be designated by the property owner in order to comply with the front yard set back requirement of any district. All other yards shall be considered side yards and must meet the minimum side yard setback requirement for the district in which it is located.

### **Sec 310: Location of Driveways**

**310.01** Driveways for non-residential uses are to be located at least seventy-five feet from a street line intersection.\*

**310.02** Driveways for one and two family residential uses are to be located at least fifty feet from a street line intersection.\*

*\* The DRB acknowledges that in the denser village areas there are situations where this may not be possible, due to smaller lot sizes and existing conditions. In those cases, driveways are to be located as far from the street line intersection as is practical.*

### **Sec 311: Temporary Uses and Structures**

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for non-conforming uses incidental to construction projects, or for temporary housing of agricultural employees, provided such permits are conditioned to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

### **Sec 312: Unsafe Structures and Sites; Burned Buildings**

Construction sites on which work has temporarily or permanently ceased shall be securely fenced off and/or all open excavations shall be filled.

Structures which have become unsafe or uninhabitable due to abandonment, fire damage, or demolition shall be repaired or removed from site within three (3) months of receiving written notice from the Administrative Officer. Foundation excavations remaining shall be either fenced off or filled to normal grade. The Development Review Board may grant time extensions for reasonable cause after public notice and hearing.

### **Sec 313: Obstruction of Vision**

On a corner lot regardless of the district, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five (25) feet away from their intersection, there shall be no continuous obstruction of vision between the height of three (3) feet and ten (10) feet above the average grade of each street.

### **Sec 314: Height Regulations**

Except for agricultural purposes, in all districts structures shall not exceed the height regulations of such district measured from the **average grade of the property at the structure**.

The following structures are exempt from the district height regulations.

1. Silos
2. Church steeples
3. Industrial Smoke Stacks
4. Necessary HVAC equipment
5. Utility poles or electric transmission towers
6. Other structures as approved by the DRB through a waiver process.

In accordance with 24 VSA, section 4412(6), the height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures, shall not be regulated unless these bylaws provide specific standards for regulation. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

### **Sec 315: Private Swimming Pools**

Private swimming pools installed below ground level shall be enclosed by a fence or other acceptable means as determined by the Administrative Officer. All swimming pools shall meet the set-back requirements for the district in which it is located.

### **Sec 316 Off-Street Parking and Loading Space Requirements**

Off-street parking shall be provided as follows: (2) Two spaces per single dwelling unit; (1) one space per accessory dwelling unit; and (1.5) one-and-one-half spaces per unit of a multiunit dwelling. Off-street parking for all other Permitted uses will be subject to approval under Site Plan Review; and off-street parking for all other Conditional Uses will be subject to approval under Conditional Use Review.

**316.01** All proposed new driveways shall be at least twenty (20) feet in width, except for one and two family uses, and shall be designed and maintained to permit access to all required off-street spaces without moving any other vehicle. An off-street parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long. An off-street loading space shall be scaled to the delivery vehicles expected to be used and accessible to such vehicles when the required off-street parking spaces are filled.

**316.02** The Development Review Board (DRB) may require an increase or allow a decrease in the number of off-street parking and loading spaces for any use if they find that the normally required number of spaces is not consistent with the proposed use. When the use of developed lots with non-conforming parking is expanded or changed the DRB may take into account existing on street parking.

**316.03** With the approval of the DRB, parking spaces may be provided by the applicant on other property, provided such land lies within three hundred feet of an entrance to the principal building of the applicant.

**316.04** Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assigned to one use may not be assigned to another at the same time, except upon approval of the DRB.

**Sec 317: Signs, number and surface area:**

The purpose of this section is to limit the use of signs to those purposes which serve the public interest.

For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, & composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface of a sign shall be computed as including the entire area within a regular geometric form or combinations or regular geometric forms comprising all of the sign & including all of the elements of the matter displayed. Frames & structural members not bearing advertising matter shall not be included in computation of surface area.

No signs or billboards shall be permitted in any district except as specifically permitted herein as follows:

**ON PREMISE SIGNS:**

The following signs are permitted when located on the immediate property:

**317.01 Signs in Rural, Town, and Village Districts:**

- A. One professional or home occupation sign, not exceeding six (6) square feet.
- B. One Temporary real estate sign, not exceeding six (6) square feet.
- C. Signs identifying any nonresidential building or use permitted in residential districts, not exceeding a total of thirty-two (32) square feet.
- D. Directional or informational signs, not exceeding four (4) square feet.
- E. Signs necessary for public safety or welfare.

**317.02 Signs in Commercial/ Industrial districts:**

The following signs are permitted when located on the immediate property: Establishments will be permitted a wall sign, a free- standing sign, and a directional sign.

- A. All signs permitted in residential districts.
- B. Business signs as approved by the Development Review Board.
- C. Free standing signs shall not exceed one-hundred (100) square feet.
- D. One directory sign not exceeding four (4) square feet in area.

**317.03 Wall and roof signs:**

- A. Every wall sign shall:
  1. Not exceed the highest point of the building's roof.
  2. Not exceed three-hundred (300) square feet in area.

B. Roof signs shall not be permitted in any zoning district.

#### **317.04 Computation of Permissible Sign Area:**

When computing the total sign area for any use:

- A. Existing signs shall be included.
- B. The total area of all signs shall not exceed the requirements set forth in this bylaw.
- C. Signs consisting of free standing letters, numerals or other devices shall include any intervening spaces between them.
- D. Only the larger face area of a double-faced or A-type sign shall be used.
- E. Back to back signs may be counted as one sign.

#### **317.06 Traffic Hazard, Safety and Obstruction:**

SIGNS ARE EXEMPT FROM THE SETBACK REQUIREMENTS OF THE DISTRICT, however, every sign shall be designed and located in such a manner as to:

- A. Not impair public safety.
- B. Not restrict clear vision between a sidewalk and street.
- C. Not be confused with any traffic sign or signal.
- D. Not prevent free access to any door, window or fire escape.
- E. Not be placed within the Town or Village right-of-way.

#### **317.07 Illuminated and Flashing Signs:**

- A. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other adjoining properties.
- B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.

#### **317.08 Special Signs:**

Temporary signs promoting civic functions may be permitted upon approval of the Administrative Officer in accordance with these bylaws.

### **Sec 318: Earth Resources including Sand and Gravel**

In any district where the extraction of earth resources is permitted, the removal of soil, sand or gravel **for sale**, except when incidental to construction of a building on the same premises, shall be permitted only upon approval of a plan for the rehabilitation of the site by the Development Review Board (DRB) after public hearing. In any district **where such activity is allowed**, the following provisions shall apply:

**318.01** Before approval of any new or extension to a sand or gravel operation, a restoration plan shall be provided by the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest

of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end.

**318.02** The removal of all material shall be conducted giving due regard to the contours in the vicinity, such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such a pit.

**318.03** When excavation is complete, sites shall be graded smooth and left in a neat (ready to use) condition. Under the supervision and to the satisfaction of the DRB, the site shall be fertilized, mulched, and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion.

**318.04** All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water must receive approval of the DRB.

**318.05** All excavation slopes in excess of two feet (horizontal) to one foot (vertical) shall be adequately fenced as approved by the DRB.

**318.06** Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited except as approved by the DRB.

### **Sec 319.0: Telecommunications Facilities**

Telecommunications facilities shall include all telecommunications service providers and associated equipment and buildings.

Note: The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the VT Public Service Board according to the provisions of that section.

**Sec 319.01:** The purpose of this Section is to protect the public health, safety and general welfare of the Town of Barton and the Villages of Barton and Orleans while accommodating the communication needs of residents and businesses. This Section shall be applied to:

- A. Preserve the character and appearance of the Town of Barton and its Villages while allowing telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural resources of the Town of Barton and its Villages.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunications facilities and towers.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities, towers and sites where possible and appropriate.
- E. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Barton and its Villages.
- F. Minimize the adverse visual effects of towers through careful design and siting standards.

- G. Encourage, through performance standards and incentives, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals and childcare facilities.

**Sec 319.02 Authority:** Pursuant to 24 V.S.A. § 4414(12) et seq. the Development Review Board (DRB) is authorized to review, approve, conditionally approve, or deny applications for telecommunications facilities, including sketch, preliminary and final plans, and installation.

**Sec 319.03 Consistency with Federal Law:** In addition to other findings required by this bylaw, the DRB shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This bylaw does not:

- A. Prohibit or have the effect of prohibiting the provision of personal wireless services;
- B. Unreasonably discriminate among providers of functionally equivalent services; or
- C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

**Sec 319.04 Independent Consultants:** Upon submission of an application for a Telecommunications Facility permit, the DRB may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the DRB. The consultants shall work at the DRB's direction and shall provide the DRB such reports and assistance, as the DRB deems necessary to review an application.

**Sec 319.05 Permit Application Requirements:** Telecommunications towers or facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in all zoning districts of the Town of Barton.

An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the DRB.

**Sec 319.06 Site Plan Requirements:** In addition to site plan requirements found elsewhere in this bylaw (Sec 324), site plans for telecommunications facilities shall include the following supplemental information:

- A. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site.

- B. Vicinity Map showing the entire vicinity within a 2500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.
- C. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
- E. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.

Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

**Sec. 319.07 Collocation Requirements:** Collocation of telecommunications facilities is strongly encouraged. Applications for new telecommunications towers or facilities must demonstrate an awareness of the location of existing telecommunications facilities within a one-mile radius of the project area and explain why collocation of telecommunication facilities is (or is not) feasible or appropriate.

Towers that are approved by the DRB shall be designed and constructed to allow for the collocation of future telecommunications facilities in accordance with this bylaw.

**Sec. 319.08 Design Requirements:** Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for its intended use and public safety.

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment.
- B. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the Development Review Board that the additional height is necessary in order to provide adequate coverage in the Town of Barton and/or Villages of Barton and Orleans or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area. Telecommunications towers or facilities of a height that would require day or night-time lighting to comply with federal aviation rules shall not be permitted.
- C. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances,

the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances.

- D. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

**Sec 319.09 Amendments to Existing Permits:** An alteration or addition to a previously approved telecommunications facility shall require a permit amendment when any of the following are proposed:

- A. Change in the number of buildings or facilities permitted on the site;
- B. Material change in technology used by the telecommunications facility; or
- C. Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

**Sec. 319.11 Placement on Existing Structures:** The placement of telecommunications antennas on or within existing buildings, structures, roofs, or walls shall be reviewed by the Development Review Board as a conditional use, provided the antennas meet the requirements of this bylaw, and upon submission of:

- A. A final site and building plan.
- B. A report prepared by a qualified engineer, licensed to practice in the State of Vermont, indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.

**Sec. 319.12 Temporary Telecommunications Facilities:** Any telecommunications facility designed for temporary use is subject to the following:

- A. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Administrative Officer.
- B. Temporary telecommunications facilities are permitted for no longer than five days use during a special event.
- C. The maximum height of a temporary facility is 50 feet from grade.
- D. Temporary facilities must comply with all applicable portions of these regulations.

**Sec. 319.13 Interference with Public Safety Telecommunications:** No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and

certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during that testing process.

**Sec. 319.14 Abandoned, Unused, Obsolete, Damaged or Dangerous Towers or Portions of Towers:** Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- A. Abandoned or unused towers and associated facilities shall be removed within one year of cessation of operations at the site unless a time extension is approved by the Development Review Board. In the event the tower is not removed within one year of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or tower owner.
- B. Unused portions of towers shall be removed within one year of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.

Sec. 319.15 Fees: Fees for filing an application to build or alter a telecommunications facility shall be \$100. In addition to this standard fee, fees may also be imposed to include and cover any reasonable costs the Town may incur in obtaining an independent technical assessment of the application.

Sec. 319.16 Severability: If any portion of this Section is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected.

Sec. 319.17 Communications antennae and facilities: No permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

Sec. 319.18: De minimis telecommunications impacts. The Administrative Officer shall review telecommunications facilities applications, and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in the bylaws, shall approve the application.

### **Sec 320: Screened Service Area Requirements**

In any district, the Development Review Board may require the screening of all areas designated, used or intended to be used as service areas for any building or land use, other than one family and two-family dwelling units, where the adjacent land is in a residential district or residential use. Such areas shall be screened, if required, with a wall, a solid fence or a fence of evergreens at a height of at least five feet above grade level on all sides.

**Sec. 321: Storage of Flammable Liquids**

The storage of any flammable liquid in above ground tanks with unit capacity of five-hundred gallons and up to one-thousand gallons shall be prohibited, unless such tanks are placed not less than ten (10) feet from all property lines and twenty (20) feet from any on-site structures. All above ground storage tanks greater than one-thousand gallons in capacity and up to and including ten-thousand gallon capacity are to be placed not less than thirty (30) feet from all property lines and on-site structures. All such tanks of more than ten-thousand gallon capacity are to be placed no less than fifty (50) feet from all property lines and on-site structures. All tanks having a capacity of ten-thousand gallons or greater shall be properly retained with dikes, if required by State of Vermont regulations, having a capacity not less than one-and-one-half times the capacity of the tanks surrounded.

**Sec 322: Livestock and Pets**

The raising or harboring of livestock or domestic animals for personal non-agricultural purposes, that is, not being part of an on-going farming operation or enterprise for profit whereby the majority of goods or food raised or produced are sold on the open market; including but not limited to horses, cattle, hogs, fowl, or fur bearing animals, shall be subject to Conditional Use review within Barton and Orleans Villages only. Such activities shall be permitted uses within the Natural Area, Low Density, and Medium Density zoning districts and prohibited in the High Density, Mixed Use, Industrial, and Shore Land districts. Household pets are exempted from these provisions provided that there are not more than six cats and/or dogs over six months old per dwelling unit. The minimum lot size under this Section for this use shall be at least ½ of an acre or more in size. The following limitations shall apply:

- A. Cattle: No more than three per ½ acre.
- B. Horses: No more than three per ½ acre.
- C. Hogs: No more than four per ½ acre.
- D. Goats: No more than four per ½ acre.
- E. Sheep: No more than four per ½ acre.
- F. Lamas or Alpacas: No more than three per ½ acre.
- G. Poultry or Fowl: No more than twelve per ½ acre.
- H. Ostriches or Emus: No more than three per ½ acre.
- I. Deer: No more than three per ½ acre.
- J. Combination of Species: Except for fowl, no more than a total of three animals per ½ acre.
- K. Rabbits: No more than ten per ½ acre.

Under all circumstances, there shall be adequate provision for the shelter and care of the animals. At all times, proper fencing shall be maintained so as to prevent the straying of animals onto adjacent properties, roads and highways. Excessive amounts of manure and animal waste which can not be completely utilized by the property owner shall not be allowed to accumulate on the property so as to have an adverse impact on the use of adjacent properties and must be disposed of off-site. These regulations shall continue to apply as animals are sold, culled, slaughtered or otherwise disposed of, regardless of when the property owner first started to acquire such animals.

**Sec 323: Required information for Zoning permits, Site Plan Review, Conditional Use permits, Subdivision permits, and PUD Applications**

The applicant shall submit three (3) sets of site plan maps, supporting data, and applications to the Administrative Officer, which shall include the following information in drawn form and accompanied by written text:

**I. APPLICATION INFORMATION: (MINIMUM REQUIRED INFORMATION)**

- Name and address of the owner of record of the land in question and of adjoining lands.
- Zoning District
- Proposed Use
- Lot Size(s)
- Location of proposed use
- Curb cut approval from the Selectboard and/or Trustees
- State permits, if needed
- Upon request, written evidence from Village officials (Board of Trustees or Supervisor) indicating the Village's ability to provide water, wastewater, and/or electric service.

**II. PLAN INFORMATION: (MINIMUM REQUIRED INFORMATION)**

- Name and address of person or firm preparing map.
- Scale of map,
- North point,
- Date prepared,
- Property lines,
- Lot areas proposed,
- Location and names of roads and streets abutting the immediate development
- Location of water bodies on or abutting the property, including lakes, ponds, rivers, and streams

### III. ADDITIONAL INFORMATION WHICH MAY BE REQUESTED

The applicant may attend a regularly scheduled Development Review Board meeting to receive an informal pre-application advisory regarding the likely needs for additional supporting data including but not limited to the following:

1. Existing and proposed contours.
2. Utilities Location.
3. Public Right-of-Ways and Easements.
4. Land Use deed restrictions.
5. Landscaping and existing large trees.
6. Location of curb cut.
7. Drainage Structures.
8. Stormwater Flow patterns.
9. Construction Sequence Schedules.
10. Pedestrian Walkways.
11. Traffic Circulation and Parking Layouts.
12. Building Elevations and Site Plan Locations.
13. Existing and proposed structures.
14. Other information as requested.

#### **Sec. 324: Site Plan Review Procedure (also used for Subdivision Review)**

A. The Development Review Board (DRB) shall conform to the requirements of 24 VSA, Section 4416 of the Act before acting upon any application.

B. In considering its action the DRB shall consider and may impose appropriate conditions and safeguards with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to the protection of the utilization of renewable energy resources.

C. The DRB shall review the site plan map and supporting data before approval, approval with stated conditions, or disapproval is given, and taking into consideration the following objectives:

1. Harmonious relationship between proposed uses and existing adjacent uses.
2. Maximum safety of vehicular circulation between the site and the street network.
3. Adequacy of circulation, parking, and loading facilities with particular attention to safety.
4. Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent property.
5. The protection of the utilization of renewable energy resources.

D. In addition, (only after vote of the DRB to do so) the DRB may further consider and impose appropriate conditions necessary to make positive findings with regard to the following criteria.

- a. The character of the area in the district affected.
- b. Traffic on roads and highways in the vicinity.

C. The impact of the project on municipal (village) infrastructure, such as water, wastewater, and electric utilities.

D. Whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. §1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.

### **Sec 325: Planned Unit Development (PUD)**

The Development Review Board (DRB) is hereby empowered to vary certain zoning regulations under the criteria and procedures established in 24 VSA, Section 4417 of the Act. If requested in the project application, the DRB may simultaneously review a subdivision plat.

325.01 Site plan submittal requirement shall conform to the requirements of Section 324.

325.02 The purpose (conditions) of planned unit development shall be:

- a) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in village centers and associated neighborhoods.
- (b) To implement the policies of the municipal plan
- (c) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.
- (d) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
- (e) To provide for efficient use of public facilities and infrastructure.
- (f) To encourage and preserve opportunities for energy-efficient development and redevelopment.

325.02 Density may vary within the development as approved by the DRB, but only the same number of lots that would normally be permitted in the zoning district in which the PUD is located.

325.03 The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located. In a planned unit development, dwelling units may be multi-family. In a planned unit development residential district, commercial, educational, and public facilities may be allowed which are designed to serve the development and the area around the development.

325.04 Lot size, width, front yard depth, and side yard requirements may be waived; however, these will be evaluated by the DRB on their individual merit.

325.05 A planned unit development (PUD) shall comply, or may be conditioned to comply, with

the following standards:

1. The project should complement and/or reinforce the general character of the area in which it is located, and should not unreasonably conflict with the intended land use designation of the district.
2. The granting of setback or density waivers (if any) will not cause undue and adverse effect upon the use of, or create undue or unsafe conditions upon abutting properties.
3. The project will not cause undue and adverse air pollution.
4. The project will not cause undue and adverse ground or surface water pollution so that an unhealthy or unstable condition results from improper stormwater run-off treatment and handling.
5. The project will not cause undue adverse and unhealthy conditions with regard to wastewater collection, treatment, and disposal.
6. The project shall have adequate water to meet the reasonable needs of the project and that the development of water supplies will not create undue adverse effect on adjacent existing water supplies.
7. The project will not cause an undue and adverse effect with respect traffic flow or congestion within or in the immediate service area of the project.
8. The project will not cause undue adverse impact on identified or critical wildlife habitat including Class I and II wetland areas.
9. There shall be adequate municipal and/or private utility services to meet the reasonable needs of the project including power, water, solid waste, fire protection and emergency services.
- 10 The project will not cause undue and adverse impact on identified flood plains.
11. Consideration of Mitigating Factors: If the DRB is unable to make positive (written) findings on all criterion, it may require the applicant to designate certain areas within the project to remain undeveloped or designated for other approved purposes in support of the project.

### **Sec 326: Travel Trailers**

It shall be unlawful for a travel trailer, recreational vehicle (RV), pickup, camper, or motor home to be utilized as a residence unless in conformance with the requirements of the district in which it is located, such as in an approved travel trailer park, or on one's own private property.

### ***Sec 327: Flood Hazard Area Requirements – updated to meet FEMA minimum standards***

**327.01 Lands to Which These Regulations Apply.**

*These regulations shall apply for development in all areas in the Town of Barton identified as areas of special flood hazard on the current National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.*

**327.02 Conditional Use Permit Required**

*A. All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Barton Zoning Bylaw are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Development Review Board (DRB).*

*B. Prior to issuing a permit for the construction of new buildings, the improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted to the Vermont Department of Environmental Conservation, Watershed Management Division, Floodplain Manager, (Formerly Vermont Department of Water Resources and Environmental Engineering) in accordance with 24VSA 4424(D). A permit may be issued only following receipt of comments from the Department of or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.*

*C. Adjacent communities and the Vermont Department of Environmental Conservation, Watershed Management Division, River Engineer (Formerly Water Resources and Environmental Engineering) shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.*

*D. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.*

**327.03 Base Flood Elevations and Floodway Limits**

*A. Where available, i.e.; Zones A1-A30, AE, and AH, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.*

*B. in areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, i.e.; Zone a, base flood elevation and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.*

**327.04 Conditional Use Review Procedures**

A. Upon receiving an application for a conditional use permit under these regulations, the Development Review Board shall, prior to rendering a decision thereon:

1. Obtain from the applicant;

a. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;

b. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood-proofed;

c. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;

d. Base flood elevation data for subdivisions and other proposed development which contain at least 50 lots or 5 acres (whichever is the smaller).

e. Such other information deemed necessary by the Development Review Board for determining the suitability of the site for the proposed development.

2. Obtain from the Vermont Department of Environmental Conservation, Watershed Management Division, or other state or federal agencies any available base flood elevation data.

3. A Project Review Sheet should be obtained from the VT Department of Environmental Conservation Regional Permit Specialist and attached to the application.

B. In reviewing each application, the Development Review Board shall consider:

1. The evaluation of the Vermont Department of Environmental Conservation, Watershed Management Division, .

2. The availability of alternative locations not subject to flooding for the proposed use.

3. The susceptibility of the proposed improvement to flood damages.

4. The safety of access to the property in times of flood of ordinary and emergency vehicles.

5. The potential for damage to the property caused by erosion.

6. The danger that materials may be swept onto other lands and cause damage to others.

7. Such other factors as are relevant to the purposes of this bylaw.

C. The Development Review Board may grant a conditional use permit for

development provided:

1. All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law.
2. The development standards of 327.05 are met or exceeded.

### **327.05 Development Standards within Areas of Special Flood Hazard**

A. All development and structures shall be:

1. Designed to minimize flood damage to the proposed development and to public facilities and utilities, and;
2. Designed to provide adequate drainage to reduce exposure to flood hazards.
3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
4. Constructed with materials resistant to flood damage;
5. Constructed by methods and practices that minimize flood damage, and;
6. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

C. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

D. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

F. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

G. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

H. Existing buildings to be substantially improved for:

1. Residential purposes shall be modified or elevated to meet the

requirements of 327.05(G).

2. *Nonresidential purposes shall either:*

- a. *Meet the requirements of 327.05(G), or;*
- b. *Be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.*

3. *Junkyards and storage facilities for floatables, materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway. These facilities may be permitted outside of the floodway, provided the area is filled to at least one foot above the base flood elevation.*

I. *Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.*

J. *Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation and subject to flooding, shall:*

1. *Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,*
2. *Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria*
  - a. *A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade.*
  - b. *Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*

K. *Recreational vehicles must be fully licensed and ready for highway use.*

### **327.06 Duties and Responsibilities of the Administrative Officer**

*The Administrative Officer shall maintain a record of:*

A. *All permits issued for development in areas of special flood hazard.*

*B. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.*

*C. The elevation, in relation to mean sea level, to which buildings have been flood-proofed.*

*D. All flood-proofing certifications required under this regulation.*

*E. All variance actions, including justification for their issuance.*

### **327.07 Variances**

*Variances shall be granted by the Development Review Board only:*

- 1. In accordance with the provisions of 24 VSA section 4469(a);*
- 2. Upon a determination that during the base flood discharge the variance will not result in increased flood levels.*
- 3. Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.*

### **327.08 Warning of Disclaimer of Liability**

*These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages.*

*These regulations shall not create liability on the part of the Town of Barton or any official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made thereunder.*

### **Sec 328: Stream banks**

No development shall occur within 50 feet of the seasonal high water mark of any perennial stream or river shown on the official zoning maps. If such stream or river is within a designated flood plain area, Sec 327, Flood Hazard Area Requirements, shall be the controlling provision.

### **Sec 329: Commercial Junk Yards**

The establishment of Commercial Junkyards within the Town of Barton shall be permitted as conditional uses in the Low Density zoning districts only. Non-commercial junk and junk vehicles are regulated by Town Ordinance adopted by the Select Board on July 13, 2005. In addition to any conditions that may be required by the Development Review Board (DRB) under conditional use review, all commercial junkyards approved under this Bylaw must comply with the following:

- a.) Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the Select Board of the Town of Barton. The application shall contain a description of the land to be included within the junkyard, which description shall be by reference to so-called permanent boundary markers, and the application shall also be accompanied by a copy of conditional use approval from the DRB. The procedures to be followed after an application has been made are those

specified in 24 V.S.A. § 2252-2256, as from time to time amended.

- b.) State Junkyard License Required: All commercial junkyards approved under this Bylaw shall conform with the procedures for obtaining a junkyard license from the State of Vermont as specified in 24 V.S.A. § 2261-2264, as from time to time amended.
- c.) Screening Required: All commercial junkyards approved under this Bylaw shall be effectively screened from public view by a fence or vegetation at least eight feet in height. Any fence shall be of sound construction and of solid vertical board or 'stockade' type construction, and shall be maintained neatly and in good repair. Such a fence shall not be used for advertising signs or other displays which are visible from the traveled way of a highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein shall be considered a violation of the zoning permit and this Bylaw.
- d.) Compliance with Section 332: Any commercial junkyard approved and permitted under this section is not required, and shall not be required, to comply with Section 332 of this Bylaw.

### **Sec 330: Junky Yards**

Non-commercial junky yards and junk vehicles are regulated by Town Ordinance adopted by the Select Board and Village ordinances adopted by the Village Trustees.

### **Sec 331: Wind Energy Facilities**

**24 VSA, Ch. 117, 4412(6)** Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

**24 VSA, Ch. 117, 4413(b)** A bylaw under this chapter shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

Wind Energy Facilities (WEF), including but not limited to support towers, guy wires, rotor blades, generators, accessory structures and utility lines and poles, shall be considered a conditional use in all zoning districts. All appropriate regulations within each zoning district must be complied with in addition to the following regulations. This Section shall apply to all WEFs with blades greater than or equal to twenty (20) feet in diameter. Windmills or systems that are ornamental or artistic in nature rather than functional shall be exempted from this section if total height is less than twenty five (25) feet.

- A. Applicants proposing to construct or install a wind energy facility for personal use shall, in addition to other application requirements outlined in the Town of Barton Joint Zoning Bylaw, submit:

1. A site plan, indicating the parcel boundary lines, the location of all buildings, structures and improvements on the property, proposed or existing utility poles, guy wires or anchors and the relationship of the system to each of these features;
  2. Design and systems specifications of the WEF;
  3. Mounting and installation design and specifications of the WEF.
  4. Any additional information needed to determine compliance with the provisions of this bylaw.
- B. All building and structures accessory to a wind energy facility shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the windmill, including blade, rotor or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including blades and other vertical appurtenances.
- C. All WEFs shall:
1. Incorporate an automatic braking system device or over-speed control capable of halting operation in winds forty (40) miles per hour (m.p.h.);
  2. Be constructed, maintained and operated in a condition which will not cause unreasonable vibrations or noise emission levels (exceeding 55 decibels as measured at the property line of the property) which may have an adverse negative impact upon the use of adjacent properties;
  3. Be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high, unclimbable fence with secured access;
  4. Adhere to all applicable state and local government, as well as electric utility rules, regulations and standards.
  5. Not include any exterior lighting.
- D. WEFs shall be constructed and maintained according to a safe and appropriate design and shall not be abandoned or left unused.
1. Abandoned, unused or improperly maintained WEFs shall be removed within one (1) year of cessation of operations or use, or when the tower structure becomes structurally unsound, unless the Development Review Board approves a time extension.
  2. If the system is not removed or dismantled within the one (1) year of the cessation of operations at a site, the municipality shall notify the owner and may remove the facility. Cost of removal shall be assessed against the property or WEF owner.

### **Sec 332: Commercial Storage of Abandoned or Wrecked Motor Vehicles**

Any business engaged in the pickup, towing, storage, or impounding of abandoned, discarded, wrecked, or broken down motor vehicles, including junk motor vehicles, which are stored or warehoused by the business after pickup, shall be considered a conditional use in the mixed use zoning district, but shall not be permitted in the Shoreland overlay district. All appropriate and applicable regulations within the zoning district must be complied with including any conditions that may be required by the Development Review Board (DRB). In addition, all businesses which are approved under this category must comply with the following:

- a.) Time Limitation: Vehicles stored by a business under this section may not be held by the business for a period of time greater than 120 days, after which said vehicles must be removed from the property and lawfully disposed of.
- b.) Screening Required: The holding area for said vehicles shall be surrounded by a fence or vegetation of sufficient height and design to shield the vehicles from public view.
- c.) Number of Vehicles: The number of vehicles allowed for this use shall be limited to one vehicle per every 500 sq. ft. of floor area of the business at its primary location. The DRB may require an increase or allow a decrease in the number vehicles specified under this sub-section if the DRB finds that the normally required number of vehicles are not consistent with the proposed use.

### **Sec 333: Equal treatment of housing and affordable housing.**

(A) This bylaw shall not exclude housing that meets the needs of the population as determined in the housing element of the municipal plan and as required under subdivision 4382(a)(10) of 24 VSA, Ch. 117.

(B) This bylaw shall not exclude mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

### **Sec 334: Mobile Homes, Modular Housing, & Pre-fabricated Housing**

A mobile home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment; or as part of a Planned Unit Development; or as allowed as a temporary structure under this bylaw.

### **Sec 335: Mobile Home Parks**

Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks are an allowed use in the Medium, High, and Mixed Use zoning districts and are subject to review under Section 325 (Planned Unit Development or PUD) of these bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires PUD approval by the Development Review Board.

### **Sec 336: Multifamily Dwellings**

A multifamily dwelling shall be considered a conditional use in all zoning districts with the exception of the Natural Area, Low Density, and Industrial districts. Multifamily dwellings shall be subject to the following conditions in addition to those which may be required by the Development Review Board:

- a.) The number of families in residence shall not exceed the number of dwelling units provided.

### **Sec 337: Accessory Dwelling Units**

An accessory dwelling unit is a permitted use in the Natural Resource, Rural, Town, and Village zoning districts. *An accessory dwelling unit shall not be permitted in any designated flood hazard area or river corridor.* An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 65 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in the bylaws are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:

- A new accessory structure, constructed after the enactment of these bylaws,
- An increase in the height or floor area of the existing dwelling, or
- An increase in the dimensions of the parking areas.

### **Sec 338: Residential Care and Group Homes**

A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

A residential care home or group home, to be operated under state licensing or registration, serving nine or more persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use review.

### **Sec 339: Family Child Care Home or Facility**

A “family child care home or facility” (a.k.a. Daycare Facilities) as used in this Section, means a home or facility where the owner or operator is to be licensed or registered by the state for child care.

- a) A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property in all zoning districts with the exception of the Remote Land district.
- b) A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires site plan approval by the Planning Commission based on local zoning requirements.
- c) A family child care facility serving more than six full-time and four part-time children shall be considered a conditional use in all districts and shall be subject to all applicable

municipal bylaws.

## **Sec. 340 Performance Standards**

(A) In accordance with the Act [§4414(5)], the following performance standards shall be met and maintained for non-residential uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Administrative Officer alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No use, under normal conditions, shall cause, create or result in:

- (1) **Regularly occurring noise** in excess of 65 decibels (75 decibels within the Industrial District), or which otherwise represents a significant increase in noise levels in the vicinity of an existing use so as to be incompatible with the surrounding area;
- (2) **Releases of heat, cold, moisture, mist, fog or condensation** which is detrimental to neighboring properties and uses, or the public health, safety, and welfare;
- (3) **Electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
- (4) **Glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
- (5) **Liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
- (6) **Undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
- (7) **Clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
- (8) **Smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

(C) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture.

(D) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation. Such AMPs include *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*.

## **ART 400: NONCONFORMITIES**

### **Sec 401: Permits Issued Prior to Amendment of Regulations**

Nothing contained in this bylaw shall require any change in plans or construction of a non-conforming structure for which a zoning permit has been issued.

### **Sec 402: Nonconforming Uses**

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to the adoption of these bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions under this section:

402.01 Shall not be expanded without approval of the Development Review Board (DRB), nor shall any external evidence of such use be increased by any means whatsoever.

402.02 Shall not be changed to another nonconforming use without approval of the DRB, and then only to a use which, in the opinion of the DRB is of the same or of a more restricted nature.

402.03 Shall not be re-established if such use has been discontinued or terminated for a period of two years, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

402.04 The DRB may, after public notice and hearing, allow expansions of any nonconforming use provided such expansion conforms to any other applicable requirements of this bylaw.

### **Sec 403: Nonconforming Structures\***

Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, or vegetation), shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to the adoption of these bylaws, or construction permitted under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions under this section\*:

403.01 Shall not be moved, enlarged, extended, or restored except in compliance with the requirements of this bylaw.

403.02 Shall not be reconstructed, if such structure has been voluntarily removed by the owner, except in compliance with section 403.05 of this section.

403.03 Shall not be restored or reconstructed on the original foundation following damage from fire, flood or other non-voluntary cause, unless such restoration or reconstruction is completed within two years of such damage. New or reconstructed structures located within a designated floodplain shall comply with section 327 of the bylaw.

403.04 Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming building provided that it does not increase the degree of nonconformity.

403.05 Nonconforming structures which have become structurally obsolete, unsound or dangerous, cost prohibitive to maintain or repair, or have exceeded reasonable functional usefulness, may upon approval of the Development Review Board (DRB), be removed and replaced with a similar structure of new construction in the same or alternative location on the lot\*.

To comply with this Section, the DRB must find that the new construction:

- A. Does not increase the degree of nonconformity presently existing with the current structure;
- B. Does not cause an undue adverse effect on the character of the neighborhood;
- C. Does not cause or re-establish an undue negative impact on traffic on roads and highways.

This sub-section only applies to those non-conforming structures which have been voluntarily removed by the owner within two years of their subsequent replacement\*. Any nonconforming structures which have been razed or removed, shall not be re-established under the provisions of this Section after two years of said demolition, and if re-established, must meet the requirements of this Section and the district in which it is located.

\*This section does not apply for nonconforming structures in a designated floodplain. In some cases, non-conforming structures will have to be brought into compliance with your flood hazard regulations.

403.06 The DRB may, after public notice and hearing, allow expansions of any nonconforming structure provided such expansion conforms to the minimum dimensional requirements of the zoning district in which it is located.

## **ART 5: DEFINITIONS**

### **501.0 Definitions- Inclusions**

Except where specifically defined herein, all words used in this bylaw shall carry their accepted meanings.

**501.01** The word PERSON includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

**501.02** The present tense includes the future tense, the singular number includes the plural & the plural number includes the singular.

**501.03** The word SHALL is mandatory, the word MAY is permissive.

**501.04** The words USED or OCCUPIED include the words INTENDED, DESIGNED, or ARRANGED TO BE USED or OCCUPIED.

**501.05** The word LOT includes the words PLOT or PARCEL.

## Sec 502: Term Definitions

For the purpose of this bylaw, hereinafter defined terms or words shall be interpreted as follows:

**ACCESSORY DWELLING UNIT:** An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity.
- The unit does not exceed 65 percent of the total habitable floor area of the single-family dwelling.
- Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. § 4412(1)(E).

**ACCESSORY USE OR STRUCTURE:** A use or structure on the same lot with, & of a nature customarily incidental & subordinate to, the principal use or structure. *Accessory structures that are larger than the principal structure on the lot shall be reviewed conditionally.*

**ADEQUATE CAPACITY (Telecommunications):** Capacity is considered to be “adequate” if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

**ADEQUATE COVERAGE (Telecommunications):** Coverage is “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**AFFILIATE:** When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator’s principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

**AGRICULTURE:** The use of land for farming and agricultural purposes excluding agricultural buildings.

**AGRICULTURAL STRUCTURE:** Buildings and Structures utilized for agricultural production in connection with: a.) the raising, feeding, and management of cattle, horses, pigs, goats, sheep, chickens, turkeys,

geese, ducks, fallow or red deer, pheasant, partridge, ostriches, emus, rabbits or trout, b.) the sale of \$1,000 or more of agricultural products in a normal year, or c.) a business or farm management plan as approved by the State of Vermont Commissioner of Agriculture.

**ALTERNATIVE DESIGN TOWER STRUCTURE (Telecommunications):** Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also *Stealth Facility*).

**ANIMAL HOSPITAL:** A place where animals or pets are given medical or surgical treatment & the boarding of animals is limited to short term care incidental to the hospital use.

**ANTENNA:** A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

**ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**ANTENNA SUPPORT STRUCTURE:** Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

**APPLICANT:** Any person or party that has legal title to and control of the disposition of the property in question, or an owner in equity acting with the consent of the holder of legal title. Joint owners of property must provide evidence of mutual agreement to or co-sign an application for a Zoning permit.

**AREA OF SHALLOW FLOODING:** Means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, & where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:** Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-A30, AE, or A99.

**AUTO SERVICE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles & which may include facilities for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. An auto service station is not a sales, or

major repair agency for autos, trucks or trailers.

**AVAILABLE SPACE (Telecommunications):** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

**BANKS:** An establishment, created under the laws of the State of Vermont, for the custody, loan, exchange, or issue of money, for the extension of credit, & for facilitating the transmission of funds.

**BASE FLOOD:** Means the flood having a one percent chance of being equaled or exceeded in any given year.

**BASE STATION (Telecommunications):** The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications providers can be located on a single tower or structure.

**BASEMENT:** Means any area of the building having its floor subgrade below ground level on all side.

**BED & BREAKFAST:** Overnight accommodations and meals in a dwelling unit provided to transients for compensation.

**BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

**BUILDING HEIGHT:** The average of 3 vertical distances measured from the ground level to the peak or highest point of the roof, taken at the two most exposed adjacent building corners and at a point midway between the two subject corners. In the Commercial and Industrial Districts, the Development Review Board may increase height limits after consideration of; evidence of compelling need; character of the neighborhood; and receipt of written waivers from abutting property owners.

**BULLETIN 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance.

**CAMPGROUND:** *A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.*

**CAMPING UNIT:** *Any tent, trailer, cabin, lean-to, recreational vehicle or similar structure serving as temporary living quarters for recreation, education, or vacation purposes.*

**CAR WASH:** A structure containing facilities for washing automobiles that may include a chain conveyer or other method of moving cars along, & automatic or semiautomatic application of cleaner, brushes, rinse water & heat for drying.

**CELL SITE:** A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.

**CELLULAR SERVICE:** A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

**CELLULAR TELECOMMUNICATIONS:** A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

**CELLULAR TELECOMMUNICATIONS FACILITY:** Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

**CEMETERY:** *Property used for the burial &/or disposition of remains of the human or animal dead.*

**CHANNEL:** The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

**COLLOCATION:** Locating wireless communications equipment from more than one provider on a single site.

**COMMERCIAL Use:** Activity involving the sale of goods or services carried out for profit.

**COMMERCIAL JUNK YARD:** Any place of outdoor storage or deposit which is maintained, operated or used either primarily as a junkyard business or in connection with an auto repair business or a car dealership, or as a scrap metal processing facility, for the storing, keeping, processing, buying or selling junk or junk motor vehicles; or the establishment of a "vehicle graveyard" so-called. However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with 24 V.S.A. 2201 and any applicable State regulations, or a non-commercial junkyard which is governed by Town Ordinance.

#### **COMMERCIAL STORAGE OF ABANDONED OR WRECKED MOTOR**

**VEHICLES:** Any storage of a damaged, broken down, wrecked, discarded or abandoned vehicle, or junk motor vehicle(s), by a business engaged in the pickup, impounding, or towing of such vehicles (either exclusively or connection with another business) for the purposes of storing such vehicles until claimed by the vehicle's owner, or until title passes to the business in the event that the vehicle remains unclaimed under applicable state law, or until such time as the vehicle can be lawfully disposed of or sold to a junk or scrap yard. Any business engaged in these activities must comply with the requirements of Section 331 of this Bylaw.

**COMMON CARRIER:** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

**COMMUNICATION EQUIPMENT SHELTER:** A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

**COMMUNICATION TOWER:** A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

**COMMUNICATIONS FACILITY:** A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

**CONTRACTOR YARD:** *A lot or a portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.*

**CORNER LOT:** A plot or parcel of land located at the interior angle of the intersection of two streets.

**dBm:** Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

**dBu:** Unit of measure of the electric field strength of a signal, expressed in an absolute measure for describing service areas and comparing different transmitting facilities independent of the many variables (see dBm above) introduced by different receiver configurations.

**DEVELOPMENT:** Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, & any change in the use of any building or other structure, or land, or extension of use of land.

**DIRECTIONAL ANTENNA:** An antenna or array of antennas designed to concentrate a radio signal in a particular area.

**DISH ANTENNA:** A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

**DWELLING, MULTI-FAMILY:** *A building containing three or more dwelling units, including units that are located one over another. The number of families in residence shall not exceed the number of dwelling units provided.*

**DWELLING, SINGLE FAMILY:** *A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space and yards.*

**DWELLING, TWO-FAMILY:** *A building on a single lot containing two dwelling units, each of which is totally separated from the other by an un-*

*pierced wall extending from ground to roof or an un-pierced ceiling or floor and extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.*

**DWELLING UNIT:** A room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, & physically separated from any other rooms or dwelling units which may be in the same structure, & containing independent cooking & sleeping facilities. It shall include prefabricated & modular units which shall meet the standards of building codes, but shall not include hotels & motels.

**EARTH RESOURCES EXTRACTION:** The removal or mining of sand, gravel, stone or other geological material involving a total or cumulative land extraction area larger than 1,000 (horizontal) square feet.

**ELECTROMAGNETICALLY ABLE:** The determination that the signal from and to a proposed telecommunications antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam, water, or other distribution systems, including wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs & similar equipment & accessories in connection therewith, & including buildings, reasonably necessary for furnishing adequate service by such public utilities or municipal or other governmental agencies for the public health, safety or general welfare.

**FACILITY SITE:** A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

**FAMILY:** *A group of individuals not necessarily related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit. 'Family' does not include and society club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who are in a group living arrangement as a result of criminal offenses.*

**FAMILY CHILD CARE HOME OR FACILITY:** A family day care home is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

(A) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and

(B) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902((3)).

**FARMING:** As defined in 10 VSA 6001(22): The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste produced on the farm.

**FCC:** Federal Communications Commission. The FCC is the government agency responsible for regulating telecommunications in the United States.

**FCC 97-303:** A Report and Order which sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** Means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, &/or E.

**FLOOD INSURANCE RATE MAP (FIRM):** Means an official map of a community, on which the Administrator has delineated both the special hazard areas & the risk premium applicable to the community.

**FLOOD INSURANCE STUDY:** Means an examination, evaluation, & determination of flood hazards &, if appropriate, corresponding water surface elevations.

**FLOOD PROOFING:** Means any combination of structural & non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water & sanitary facilities, structures & their contents.

**FLOODWAY:** Means the channel of a river or other watercourse & the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FOOD ESTABLISHMENT:** Retail establishments selling food & drink for immediate consumption on or off the premises, including restaurants, diners, lunch counters, refreshment stands, and mobile food facilities.

**FREIGHT TERMINAL:** A place where transfer between modes of transportation take place or a terminating point where goods are

transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

**FREQUENCY:** The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

**FRONTAGE:** Length of the lot boundary measured along the public road right-of-way or mean watermark of a public waterway.

**FRONT LOT LINE:** The line between the road right-of-way or property line and the lot in question. Where the right-of-way width has not been established &/or recorded, the Front Lot Line shall be considered to be 25 feet from the center line of the traveled portion of such road or street. Lots at the end of roads or drives need not have a Front Lot Line.

**FRONT YARD:** Shortest distance between the centerline of a highway right-of-way or road and the nearest point on the regulated structure. *In the Shore Land Area the front yard is measured from the high water mark of the shoreline to the nearest point on the regulated structure.*

**FUEL STORAGE:** The commercial, bulk storage of gasoline, diesel fuel &/or other flammable liquids used for the purpose of powering motor vehicles &/or heating homes & other structures in either above ground or in ground tanks.

**GHz:** Gigahertz. One billion hertz

**GRADE OF SERVICE:** A measure of the percentage of calls which are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05 – which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

**HEALTH CARE FACILITY:** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for sheltered care, & biomedical laboratory or central services facility serving one or more such institutions, but excluding institutions that provide healing solely by prayer.

**HEAVY EQUIPMENT SALES AND SERVICE:** The sale & repair of vehicles, implements, & inventory involved in farming, construction, logging, & serving of railroads & ski areas.

**HERTZ:** (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity

once each second, or one cycle per second.

**HOME OCCUPATION:** The accessory use of a dwelling and accessory structures carried out solely by the resident(s) for gain, provided: such use utilizes an area of or involves a use expansion less than 50% of the total existing principal building area and; does not cause an undue adverse change in the character of the area. (Refer to Section 304 for additional qualifying conditions.)

**Industry, Light:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, provided these activities are conducted in such a manner so as not to generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

**Industry, Major:** Any facility for the assembly, manufacture, compounding, processing, packing, treatment, or testing of materials, goods, or products, where these activities are carried out in such a manner that they may require the use of public water and sewer and may generate noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot.

**JUNK:** Old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber, debris, appliances, waste, trash; or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.

**JUNK MOTOR VEHICLE:** A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of ninety days from the date of discovery.

**KENNEL:** An establishment in which more than 4 dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold, *all for a fee or compensation*.

**LOADING SPACE, TRUCK:** Off-street space used for the temporary location of 1 licensed motor vehicle, not including access driveway, & having direct access to street or alley.

**LOCATION (Telecommunications):** References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

**LODGE OR CLUB:** The place where members of a local chapter of an association hold their meetings; & the local chapter itself.

**LODGING FACILITY:** A place where sleeping accommodations are provided for rent, and in which meals also may be supplied, including Bed & Breakfasts, hostels, hotels, inns, and motels.

**LOT (BUILDING):** A plot or parcel of land occupied or capable of being occupied by at least one principal building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Bylaw.

**LOT (NON-BUILDING):** A non-building lot is a parcel of land created by subdivision under these bylaws whose purpose is limited to uses other than building construction or is permitted for building construction when combined with an adjacent developed or undeveloped BUILDING LOT under common ownership. These parcels have no specific dimensional requirements.

**LOT DEPTH:** Lot depth shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front & the rearmost points of the side lot lines in the rear. In no case shall the lot measurement fall outside the limits of the lot being measured.

**LOT WIDTH:** Lot Width shall be the length of a line measured parallel to the FRONT LOT LINE at an offset distance equal to the required FRONT YARD setback. In no case shall the lot width measurement line fall outside the limits of the lot being measured.

**LOT OF RECORD:** A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOUNGE:** A structure or part of a structure used primarily for the sale or dispensing of beer, wine, or liquor by the drink.

**LOW INCOME HOUSING:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**LOWEST FLOOR:** Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec 60.3.

**MANUFACTURED HOME:** Means a structure, transportable in one or more sections, which is built on a permanent chassis & is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, & other similar vehicles placed on a site for greater than 180 consecutive days.

**MANUFACTURING:** Any process whereby the nature, size, or shape of articles or raw materials is changed, or where articles are assembled or packaged.

**MEAN SEA LEVEL:** Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MHz:** Megahertz, or one million hertz.

**MICRO-CELL:** A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

**MICROWAVE:** Electromagnetic radiation with frequencies approaching 1,000 MHz, including UHF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

**MICROWAVE ANTENNA:** A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

**MOBILE HOME:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- Transportable in one or more sections; and
- At least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- Any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

For flood plain management purposes the term "mobile home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**MOBILE HOME PARK:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

**MODERATE INCOME HOUSING:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**MODIFICATION OF AN EXISTING FACILITY (Telecommunications):** Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

**MODIFICATION OF AN EXISTING TOWER (Telecommunications):** Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

**MODULAR (OR PREFABRICATED) HOUSING:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MONITORING (Telecommunications):** The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities, towers, antennas or repeaters.

**MONITORING PROTOCOL (Telecommunications):** The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from telecommunications facilities.

**MONOPOLE:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

**MOTOR VEHICLE SALES & SERVICE:** Enclosed establishment for the display, sale & repair of new & used motor vehicles, trailers, mobile homes, & boats. It shall not include the retail sale of gasoline, or retail sale of oil except as incidental to the repair facility.

**MULTIFAMILY DWELLING:** A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**NEW CONSTRUCTION:** Structures commenced on or after the effective date of this bylaw.

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

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

**NONCONFORMING USE:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present

bylaws, including a use improperly authorized as a result of error by the Administrative Officer. 24 V.S.A. § 4303(15).

**NON-RESIDENTIAL USE:** All uses of buildings, structures or land except for 1 family, 2 family, & multi-family dwellings.

**OFF-LOT WATER AND/OR SEWER:** A lot which provides no on-site water supply and/or on-site wastewater disposal facilities service of any kind.

**OMNIDIRECTIONAL ANTENNA:** An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

**ON-LOT WATER AND/OR SEWER:** A lot which does not comply with the definition of OFF-LOT WATER AND/OR SEWER.

**PARKING LOT:** Use of land for vehicle parking where such use is not incidental to a principal building.

**PARKING SPACE- OFF-STREET:** For the purposes of this bylaw, an off street parking space shall consist of a space adequate for parking a motor vehicle with room for opening doors on both sides, together with properly related access to a public street or alley & maneuvering space.

**PERSONAL & PROFESSIONAL SERVICES:** Establishments engaged in providing services for a fee to individuals or other establishment.

**PLANNED UNIT DEVELOPMENT:** An area of land, controlled by a landowner, to be developed as single entity for number of dwelling units, and commercial and industrial uses if any, the plan for which does not correspond in lot sizes, bulk or type of dwelling, commercial or industrial uses, density, lot coverage and required open space to the regulations established in any one or more districts created, from time to time, under the provisions of a municipal zoning ordinance adopted under the authority of VSA-Title 24, chapter 117.

**PRE-EXISTING TOWERS AND ANTENNAS:** Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

**PRINCIPAL BUILDING:** A building or structure in which is conducted the principal use of the lot on which it is located. There shall be only one principal building per lot.

**PUBLIC FACILITY:** A building or structure owned and operated by agencies, departments, or units of local, county, state & federal government.

**RADIAL PLOTS (Telecommunications):** Radial plots are the result of drawing equally-spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A threshold plot uses a mark to indicate whether

that point would be strong enough to provide adequate coverage — i.e., the points meeting the threshold of adequate coverage. The draw back is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

**RADIATED-SIGNAL PROPAGATION STUDIES OR COVERAGE PLOTS:** Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining whether the telecommunications equipment will provide adequate coverage for that site.

**REAR LOT LINE:** Means the lot line opposite & most distant from the front lot line. A corner lot has no rear lot line.

**REAR YARD:** The shortest distance between the rear lot line and the nearest point of the regulated structure.

**RECREATION, INDOOR:** Includes bowling alley, theatre, table tennis & pool hall, skating rink, gymnasium, swimming pool, hobby workshop, riding stable & similar places of indoor recreation.

**RECREATION, OUTDOOR:** The establishment of a facility including; but not limited to golf driving range, golf course, outdoor amusement park, hunting preserve, yacht club, rod and gun club, or archery range, (nonresidential swimming pool, skating rink, riding stable, tennis court) beach, recreation stadium, skiing facility, playground, playfield, park open space and other similar uses as approved by the Development Review Board.

**RECREATIONAL VEHICLE (RV):** means a vehicle which is: (a) Built on a single chassis;(b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**RECREATIONAL VEHICLE PARK:** *Any lot or parcel of land upon which two or more sites are located, established, or maintained for occupancy by recreation vehicles for a fee as temporary living quarters for recreation or vacation purposes.*

**RECYCLING:** Land use or facility for the purpose of receiving, sorting, and/or shipping of recyclable materials.

**RELIGIOUS INSTITUTION:** Includes church, temple, parish house, convent, seminary, chapel, shrine, & retreat house.

**RENEWABLE ENERGY FACILITIES:** Facilities that generate energy through collection or conversion from direct sunlight, wind, running water, organically derived fuels including wood, agricultural sources, waste materials, waste heat, & geothermal sources.

**REPEATER:** A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

**RESERVOIRS:** A pond, lake, tank or basin, natural or manmade, used for the storage, regulation & control of water.

**RESIDENTIAL CARE OR GROUP HOME:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**RESIDENTIAL UNIT:** 1 or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping & sanitary facilities provided within the dwelling unit for the exclusive use of the family living therein.

**RESIDENTIAL USE:** Includes single family dwelling, manufactured home, 2 family dwelling & multi-family dwelling.

**Retail Sales:** The sale of goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of goods, which occurs through general public access and regular hours of operation in a location specifically designated for such activity. For purposes of this bylaw, retail sales does not include occasional transactions that may occur on any premises through direct selling to consumers, away from any fixed retail location.

**Retail Store:** An establishment engaged in retail sales.

**RIGHT OF WAY:** Line defining the outer limits of a right-a-way.

**ROOF AND/OR BUILDING MOUNT FACILITY:** A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

**SAWMILL:** A facility established for the processing of logs, pulp and other raw wood material into lumber and other products.

**SCENIC VIEW:** A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object.

**SCHOOL:** Includes parochial, private, public, & nursery schools, college, university, & accessory uses; & shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music, & similar establishments.

**SEASONAL USE:** *A use carried on for only part of the year.*

**SERVICE AREA:** An area of land used for the storage of trash receptacles or equipment.

**SELF-SUPPORTING TOWER (Telecommunications):** A communications tower that is constructed without guy wires.

**SIDE LOT LINE:** A lot line that is neither a front lot line nor a rear lot line.

**SIDE YARD:** The shortest distance between the side lot line and the regulated structure.

**SIGN:** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the application of the regulation herein:

A. Flags & insignia of any government except when displayed in with commercial promotion.

B. Legal notices, identification, informational, or directional signs created as required by governmental bodies.

C. Integral decorative or architectural features of building, except letters, trademarks, moving parts of moving lights.

**SIGN, ON SITE:** A sign relating in its subject matter to the premises on which it is located.

**SPECTRUM:** Relating to any transmissions or reception of electromagnetic waves.

**STREET LINE:** Right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center line of the street pavement.

**SOLID WASTE TRANSFER STATION:** Land use or facility for receiving and transferring consolidated solid wastes including bulky recyclables.

**STEALTH FACILITY:** Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles or trees. (See also Alternative Design Tower Structure.)

**STRUCTURE:** Means an assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

**STRUCTURALLY ABLE (Telecommunications):** The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable

predictable conditions as determined by professional structural engineering analysis.

**SUBDIVISION:** The dividing of a parcel of land as a result of a conveyance, court ordered partition, or the filing of a plot plan on the town records where the act of division creates one or more building or non-building lots. The subdivision shall be deemed to have occurred on the date of conveyance of the first lot or, the date of filing of a plot plan depicting one or more lots, or the date of filing of a deed, describing one or more lots, on the town records.

**SUBDIVISION (PRE-EXISTING):** A subdivision which occurred, or is recognized by the Development Review Board to have occurred, prior to and in the form it existed on June 19, 1978.

**SUBSTANTIAL IMPROVEMENT:** Means any repair or reconstruction of a structure, the cost of which equals or exceeds 25% percent of the equivalent fair market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, & is being restored, before the damage occurred. The term does not, however include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

**SYSTEM (Telecommunications):** The communications transmission system operated by a telecommunications service provider in the municipality or region.

**TELECOMMUNICATIONS FACILITY:** All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

**TELECOMMUNICATIONS PROVIDER:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**TEMPORARY WIRELESS COMMUNICATION FACILITY:** Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

**THEATER:** A building or part thereof devoted to showing motion pictures, or for dramatic, musical or live performances.

**TILED COVERAGE PLOTS (Telecommunications):** Tiled plots result from calculating the signal at uniformly-spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest, usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for

**TOWER (Telecommunications):** A vertical structure for antenna(s) that provide telecommunications services.

**TRAVEL TRAILER:** *A recreational vehicle that is towed by a car or truck. See RECREATIONAL VEHICLE.*

**TRAVEL TRAILER PARK - DELETED**

**USE, PERMITTED:** Use specifically allowed in the district, excluding illegal uses & non-conforming uses.

**VARIANCE:** A departure from any provision of this zoning bylaw relating to setbacks, side yards, frontage requirements, and lot size, but not including the actual use of the lot. Such departure may be approved and issued only by the Development Review Board in accordance with the provisions of 24 VSA 4468.

**WAIVER:** A provision offering relief from dimensional requirements of the Zoning Bylaw. Waivers will only be considered for yard setbacks and building height limits. Waivers of lot sizes or lot dimensions shall not be permitted. Waivers may be granted by the Development Review Board through the Conditional Use review process.

**WAREHOUSE:** *A building used primarily for the storage of goods and materials.*

**WHIP ANTENNA:** A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

**WILDLIFE REFUGE:** An area of land set aside for the protection & propagation of 1 or more species of animals.

**WIND ENERGY FACILITY:** An electric power turbine or generator mounted on a tower or rooftop and operated by the wind's rotation of propeller-like blades or vanes for the generation of electricity for off-grid, private consumption and not for re-sale to a publicly regulated utility.

**WHOLESALE BUSINESS:** Businesses providing goods and service to other businesses.

## **ART 6: ADMINISTRATION AND ENFORCEMENT**

### **Sec 601: Administrative Officer**

The Select Board shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with 24 V.S.A. § 4448. The

Select Board may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

An acting Administrative Officer may be appointed by the Select Board, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Select Board shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

**Sec 602: Zoning Permits** In accordance with Section 4449 of the Act:

(1) No land development, as defined in Section 4303(10) of the Act, may be commenced without a permit issued by the Administrative Officer. No permit may be issued by the administrative officer except in conformance with the bylaws.

(2) It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this chapter, within the area affected by those bylaws, until a **certificate of compliance** is issued therefore by the administrative officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws or the decision of the Development Review Board.

(3) No permit issued pursuant to this section shall take effect until the time for appeal in section 4465 of this title has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

(b) Each permit issued under this section shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in section 4465 of this title has passed. Within three days following the issuance of a permit, the administrative officer shall:

(1) Deliver a copy of the permit to the listers of the municipality; and

(2) Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.

(c)(1) Within 30 days after a municipal land use permit has been issued or within 30 days of the issuance of any notice of violation, the administrative officer shall:

(A) Deliver the original or a legible copy of the municipal land use permit or notice of violation or a notice of municipal land use permit generally in the form set forth in subsection 1154(c) of this title to the town clerk for recording as provided in subsection 1154(a); and

(B) File a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

(2) The applicant may be charged for the cost of the recording fees as required by law.

**602.02 APPLICATION:** An application for a zoning permit shall be filed with the Administrative Officer on forms provided by the municipality. Required application fees, as set by the Select Board, also shall be submitted with each application. In addition, the following information will be required as applicable:

NOTE - This should be provided to all applicants.

**Permitted Uses.** Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

- (1) the dimensions of the lot, including existing property boundaries,
- (2) the location, footprint and height of existing and proposed structures or additions,
- (3) the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- (4) the location of existing and proposed easements and rights-of-way (if applicable),
- (5) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
- (6) the location of existing and proposed water and wastewater systems (if applicable), and
- (7) other such information as required by the Administrative Officer to determine conformance with these regulations.

**Uses Subject to Development Review.** For development requiring one or more approvals from the Development Review Board (DRB) prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Chairperson of the DRB.

**602.03 Issuance:**

- (1) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board. In accordance with 24 V.S.A. §4448, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.
- (2) No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Development Review Board, or the Select Board, until such approval has been obtained. The Administrative Officer should inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.
- (3) If public notice has been issued by the Select Board for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the

proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw (§4449(d)).

**602.05** The fee for zoning permits shall be established by the Selectboard. It may be a sliding scale depending upon the cost of the land development. Said fee shall accompany each application for a permit.

### **Sec 603: Certificates of Compliance**

**603.01** In conformance with 24 VSA, Section 4449(a)(2): It shall be unlawful to use or permit the use of any land or structure, or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this bylaw, until a certificate of compliance has been issued by the Administrative Officer stating that the proposed structure or use of land conforms to the requirements of this bylaw.

**603.02** Applications for certificates of compliance shall be made to the Administrative Officer on forms provided by him/her for that purpose as soon as the approved project is completed.

**603.03** Prior to the issuance of any certificate of compliance, the Administrative Officer shall first satisfy himself/herself that the proposed use, structure, or lot conforms to the requirements of this bylaw, as well as any conditions applied by the Development Review Board.

**603.04** The fee for a certificate of compliance shall be established by the Selectboard. Said fee shall accompany each application for a certificate of compliance.

### **Sec. 604: Appeals**

Any interested person as defined under the Act [§4465] and section 602.08 of this bylaw may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Development Review Board (DRB), or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

- (1) The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The DRB shall give public notice of the hearing under 24 V.S.A. § 4467, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (2) The DRB may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the DRB determines that the issues raised by the appellant have

been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].

- (3) In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
- (4) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with 24 V.S.A. § 4470(a). Failure of the DRB to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.
- (5) A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:
  - a.) the name and address of the appellant,
  - b.) a brief description of the property with respect to which the appeal is taken,
  - c.) a reference to applicable provisions of these regulations,
  - d.) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
  - e.) the alleged grounds why such relief is believed proper under the circumstances.

### **Sec. 605: Variances**

In reviewing each application for a variance, the Development Review Board (DRB) shall render a decision in favor of the applicant/appellant only if the DRB can make positive findings on all five (5) criteria under 24 VSA 4469(a):

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that

the authorization of a variance is therefore necessary to enable the reasonable use of the property;

3. That the unnecessary hardship has not been created by the applicant/appellant;
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning bylaw and from the plan.

**Sec. 606: Waivers.**

(A) The Development Review Board (DRB), through the conditional use review process, may grant waivers from the dimensional requirements of a zoning district upon request by the applicant to allow better utilization of the lot. Waivers will only be considered for yard setbacks and building height limits. Waivers of lot sizes or lot dimensions shall not be permitted.

(B) Any waiver of dimensional requirements must have the written support of the property owners immediately adjacent to where the waiver is requested. Where a waiver of a height restriction is requested, all adjoining property owners must demonstrate support for the waiver request. The DRB may require the applicant to provide mitigation for any waiver that is granted. These standards may:

- (i) Allow mitigation through design, screening, or other remedy;
- (ii) Allow waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and
- (iii) Provide for energy conservation and renewable energy structures.

**Sec. 607: Interested Persons.**

The definition of an interested person under the Act [§4465(b)] includes the following:

- (1) a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) the Town of Barton, Village of Barton, Village of Orleans, or any adjoining municipality;
- (3) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can

demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;

- (4) any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

### **Sec. 608: Appeals to the Environmental Court.**

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Development Review Board (DRB) may appeal a decision rendered by the DRB under 24 V.S.A. § 4471(a), within 30 days of such decision, to the Vermont Environmental Court. Appeals to the Environmental Court shall also meet the following requirements:

- (1) "Participation" in a Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

### **Sec. 609: Violations and Penalties**

The commencement or continuation of any land development or subdivision that has not been issued any permit required by these regulations or does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Barton, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality. The fine imposed for each offense under this Section shall be \$100.00 [24 V.S.A. § 4451(a)].

#### **609.01 Notice of Violation:**

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven-day notice period; and, that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be

brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months. The notice of violation also shall be recorded in the land records of the municipality.

### **609.02 Limitations on Enforcement:**

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]\*. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

\*There is no longer any statute of limitations on violations involving salvage yards.

## **Sec. 610: Planning Commission and Development Review Board**

### **610.01 Planning Commission**

(1) The Planning Commission shall consist of not less than five (5) or more than seven (7) members appointed by the Barton Selectboard in accordance with 24 V.S.A. §§4321-4323. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Legislative Body.

(2) The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

(3) The Planning Commission shall have the following duties regarding this bylaw, in accordance with 24 V.S.A. §4441:

- A. to prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least five percent of the voters of the Town of Barton.
- B. to prepare and approve written reports on any proposed amendment to this bylaw; and
- C. to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard.

### **610.02 Development Review Board**

(1) The Development Review Board shall consist of not fewer than five (5) nor more than nine (9) members appointed by the Barton Selectboard for specified terms in accordance with 24 V.S.A. [§4460(b) and (c)]. The Selectboard also may appoint alternates, for specified terms, to serve on the Development Review Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Development Review Board may be removed for cause by the Selectboard upon written charges and after public hearing.

(2) The Development Review Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A. §4461(a) and Vermont's Open Meeting Law.

(3) The Development Review Board shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- A. Appeals from any decision, act or failure to act by the Zoning Administrator, as described in §508 of this bylaw, and any associated variance requests, as described in §509 of this bylaw; and
- B. Applications for conditional use approval, as described in §507 of this bylaw.
- C. Site plan approval, as described in §505 of this bylaw; and
- D. Rights-of-way or easements for development of non-frontage lots, as described in §303 of this bylaw; and
- E. Major subdivisions of land, as described in §506 of this bylaw; and
- F. Planned residential developments, as described in §317 of this bylaw.

### **Sec. 611: Public Notice**

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review [24 V.S.A. § 4447(a)], waiver requests, and appeals of decisions of the Administrative Officer and variance requests [24 V.S.A. § 4467]. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

Public notice for hearings on all other types of development review, including site plan review, shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:

- (1) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality by the Administrative Officer;
- (2) posting of the same information in three (3) or more public places within the municipality by the Administrative Officer, and the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made, said right-of-way notice to be posted by the property owner or applicant;
- (3) written notification by the Administrative Officer to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board (DRB) where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the DRB or the Environmental Court, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

## **ART 7: AMENDMENTS, INTERPRETATION, EFFECTIVE DATE**

### **Sec 701: Amendments**

This bylaw may be amended according to the requirements and procedures established in Sections 4403 and 4404 of the Act.

### **Sec 702: Interpretation**

**702.01** In their interpretation and application, the provisions of this bylaw shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort, and general welfare of the Town of Barton, Village of Barton, and Village of Orleans.

**702.02** Except as provided by Section 4413 of the Act, and where, in this bylaw, specifically provided to the contrary it is not intended by this bylaw to repeal, annul, or in any way to impair any regulations or permits previously adopted or issued; provided however, that where this bylaw imposes a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

### **Sec 703: Effective Date**

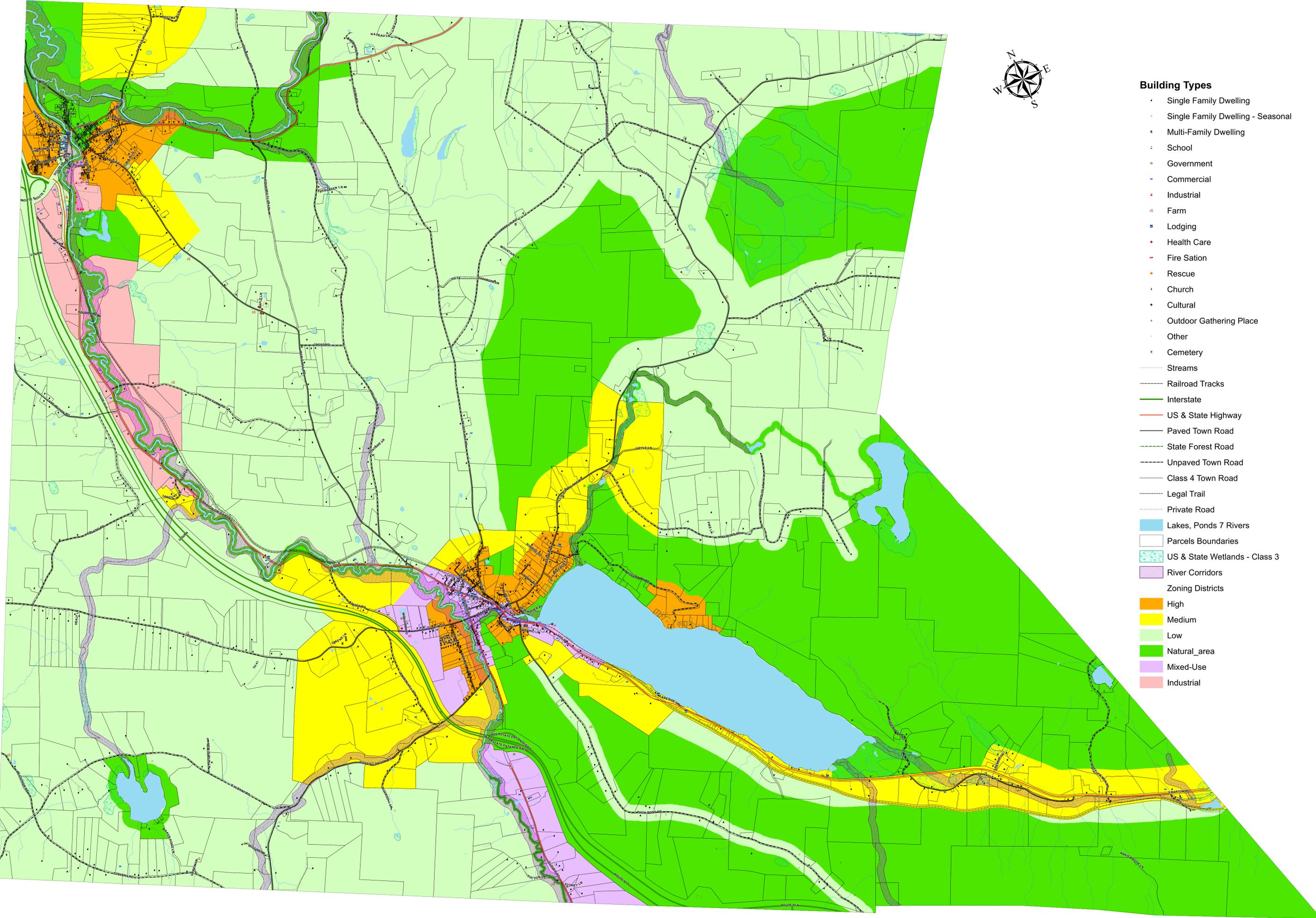
This bylaw shall take effect in accordance with the procedures contained in Section 4442 of the Act.

### **Sec 704: Separability.**

The invalidity of any article or section of this bylaw shall not invalidate any other article or section thereof.

### **Sec 705: Repeal of Former Zoning Bylaw**

The former joint Town of Barton Zoning Bylaw, adopted March 27, 2006 is hereby repealed.



- Building Types**
- Single Family Dwelling
  - Single Family Dwelling - Seasonal
  - Multi-Family Dwelling
  - School
  - Government
  - Commercial
  - Industrial
  - Farm
  - Lodging
  - Health Care
  - Fire Sation
  - Rescue
  - Church
  - Cultural
  - Outdoor Gathering Place
  - Other
  - Cemetery
- Streams
- Railroad Tracks
- Interstate
- US & State Highway
- Paved Town Road
- State Forest Road
- Unpaved Town Road
- Class 4 Town Road
- Legal Trail
- Private Road
- Lakes, Ponds 7 Rivers
- Parcels Boundaries
- US & State Wetlands - Class 3
- River Corridors
- Zoning Districts
- High
  - Medium
  - Low
  - Natural\_area
  - Mixed-Use
  - Industrial

Warning- This Data is for planning purposes only and does not replace a survey and/or engineering study. Because this map is developed from various scale sources, there may be some discrepancies between data layers.

