

JOINT ZONING BYLAW

For

TOWN OF BARTON

BARTON VILLAGE

ORLEANS VILLAGE



Amended: 2005

Planning Commission Hearings: 2/23/06

Select Board Hearings: 3/27/06

Adopted by the Barton Town Selectboard on **3/27/06**

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ZONING MAPS:

Town of Barton
Village of Barton
Village of Orleans

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 by Act 115 in 2004), 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, Barton Village and Orleans Village which is set forth in the text and maps that constitutes this bylaw. This bylaw shall be known and cited as the Town of Barton, Barton Village and Orleans Village Joint Zoning Bylaw.

Sec 102: Intent

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

ART 2: ESTABLISHMENT OF DISTRICTS AND REGULATIONS**Sec 201: Zoning Maps and Districts**

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

"R"	Remote Land
"LD"	Low Density
"MD"	Medium Density
"HD"	High Density
"C1"	Commercial 1
"C2"	Commercial 2
"I"	Industrial
"SH"	Shoreland

Sec 202: Copies of Zoning Maps

Regardless of the existence of other printed copies of the zoning maps, 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 shall refuse action, and the Planning Commission 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 205.1 through 205.8 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

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.

Sec. 205. 01: No building shall hereafter be erected or altered:

- A. To accommodate or house a greater number of families; and/or
- B. 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: Agricultural Exemption:

A. Nothing contained herein shall restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under 10V.S.A., Sections 1021(f) and 1259(f) and 6 V.S.A., Section 4810.

B. Zoning permits need not be obtained for farm structures. However, any landowner proposing to erect a farm structure shall notify the Administrative Officer of such intent prior to the erection of such structure. 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.

C. Farm structures shall comply with setbacks approved by the Secretary of Agriculture, Food and Markets. The approved setbacks are those setbacks contained in all zoning districts as outlined in Tables 205.1 to 205.8 of this bylaw.

D. New structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of fifty (50) feet is maintained between the top of the bank of any adjoining waters and the farm structures. Such structures do not include those for irrigation, drainage or fencing. (As stated in the Vermont Accepted Agricultural Practice Rule 4.07)

E. A person proposing to construct a farm structure with setbacks less restrictive than those contained herein shall submit, in writing, a request for a variance to the Secretary of Agriculture, Food and Markets. Such request must include the following information:

- a) A statement of the reason or reasons less restrictive setbacks are necessary;
- b) A copy of this zoning bylaw;
- c) A sketch plan of the proposed structure(s) showing the distance from all property lines, and;
- d) A description of the adjoining land uses.

Section 205.03: Forestry: Accepted forest practices are exempt from regulation under these by-laws.

=====

Table 205.1: Remote Land

Purpose:

This district encompasses areas in the community presently lacking adequate facilities for access, utilities, services, or having subsoil or topographic conditions that cause problems or permanent damage to the community when developed. In this district the preferred development will be single family residences on larger lots. 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, or dwelling
2. Agriculture (See Sec. 205.02)
3. Dwelling, single family
4. Home occupation
5. Planned Unit Development (See Sec.325)
including: a. Mobile Home Parks.
b. Travel Trailer Park
c. Secondary Structure
6. *Reservoirs
7. *Wildlife refuge
8. *Subdivision
9. Low Income Housing
10. *Family Child Care (See Sec. 339)
11. Livestock and Pets

Conditional Uses:

1. Cemetery
2. Recreation, outdoor
3. Telecommunications Facilities (See Sec. 319)
4. Earth resources extraction
5. Wind Energy Facility (See Sec. 331)
6. Multifamily Dwellings (See Sec. 336)
7. Residential Care/Group Home (See Sec. 338)
8. Essential Services (See Sec. 340)

Minimum Area and Dimensional Requirements

Lot area, acres:	10
Lot width, feet:	350
Lot depth, feet:	350
** Front yard, feet:	50
Side yard, feet:	20
Rear yard, feet:	20
Maximum building height, feet:	35

* Requires site plan review and approval by the Planning Commission.

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

=====

Table 205.2: Low Density

Purpose:

This district provides for non-intensive uses of land for agriculture, forestry and moderate residential development with provision for onsite water and sewer. This district encompasses areas in the community that will not be serviced by municipal water or sewage facilities in the near future. To prevent undue burdens upon the community and for environmental reasons, development will be on lots of 2 acres or more. 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, or dwelling
2. Agriculture (See sec.205.02)
3. Dwelling, single family
4. Dwelling, two family
5. *Essential services (See Sec.340)
6. Home Occupation
7. *Lodge or Club
8. *Subdivisions
9. *Wildlife refuge
10. Planned Unit Development including: (See Sec.325)
 - a. Mobile Home Park
 - b. Travel Trailer Park
 - c. Secondary Structure
11. *Reservoirs
12. Low Income Housing
13. *Family Child Care (See Sec. 339)
14. Livestock and Pets

Conditional Uses:

1. Animal Hospitals
2. Auto service station services
3. Cemetery
4. Commercial & fraternal accommodations
5. Contractor's yard
6. Earth resources extraction
7. Eating establishment
8. Fuel storage
9. Health care facility(Sec.340)
10. Heavy equipment sales/service
11. Commercial Junkyard
12. Kennel
13. Landfill
14. Solid Waste Transfer Station
15. Lounge
16. Manufacturing
17. Warehouse
18. Wholesale Business
19. Parking lot
20. Personal and Professional Services
21. Public facility (See Sec.340)
22. Recreation, indoor
23. Recreation, outdoor
24. Recycle and Redemption facility
25. Religious institution
26. Retail business
27. Sawmill
28. School (See Sec.340)
29. Secondary Structure
30. Service and repair
31. Theaters
32. Multifamily Dwellings (See Sec. 336)
33. Residential Care/Group Home (See Sec. 338)
34. Telecommunications Facilities (See Sec. 319)
35. Wind Energy Facility (See Sec. 331)
36. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec. 332)

* Requires site plan review and approval by the Planning Commission.

Minimum Area and Dimensional Requirements:

Lot area, acres:	2
Lot width, feet:	150
Lot depth, feet:	150
Front yard, feet:	50
Side yard, feet:	20
Rear yard, feet:	20
Maximum building height, feet:	35

=====

Table 205.3: Medium Density

Purpose:

In this district the density of development will be governed by the availability of services with one/half acre established as the minimum lot size where off-site water and sewage disposal are available. 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 | 8. Home Occupation |
| 2. Dwelling, single family | 9. *Parking Lot |
| 3. Dwelling, two family | 10. Planned Unit Development (See Sec. 325) |
| 4.* Essential Services (See Sec.340) | a. Mobile Home Park, |
| 5.* Subdivision | b. Travel Trailer Park |
| 6. Low Income Housing | c. Secondary Structure |
| 7.*Family Child Care (See Sec. 339) | 11. Agriculture (See Sec. 205.02) |

Conditional Uses:

- | | |
|--|--|
| 1. Personal or professional services | 20. Public facility (See Sec.340) |
| 2. Animal hospital | 21. Recreation, indoor |
| 3. Auto service station | 22. Recreation, outdoor |
| 4. Car wash | 23. Reservoirs |
| 5. Cemetery | 24. Retail business |
| 6. Commercial & fraternal accommodations | 25. School (See Sec.340) |
| 7. Contractor's yard | 26. Redemption and Recycling |
| 8. Lounge | 27. Solid Waste Transfer Station |
| 9. Service & repair | 28. Theaters |
| 10. Eating establishment | 29. Warehouse |
| 11. Health care facility(Sec.340) | 30. Wholesale use |
| 13. Heavy equipment sales & service | 31. Wildlife refuge |
| 14. Kennel | 32. Telecommunications Facilities (See Sec.319) |
| 15. Livestock and Pets | 33. Multifamily Dwellings (See Sec. 336) |
| 16. Lodge or club | 34. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec. 332.) |
| 17. Manufacturing | 35. Residential Care/Group Home (See Sec. 338) |
| 18. Motor vehicle sales & Service | |
| 19. Wind Energy Facility (See Sec. 331) | |

*Requires site plan review and approval by the Planning Commission.

Minimum Area and Dimensional Requirements:

Lot classification	A	B	C
Lot area, acres:	0.5	1.0	2.0
Lot width, feet:	90	100	150
Lot depth, feet:	80	100	150
** 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 205.4: High Density

Purpose:

This district provides for intense development centrally located in areas having existing intense development, where higher density is appropriate because of the availability of central water and sewage facilities and location of other community services. 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, or dwelling | 9.* Personal and Professional Service |
| 2. *Essential services (See Sec.340) | 10. Planned Unit Development (See Sec. 325) |
| 3. *Parking lot | Including: |
| 4. Dwelling, single Family | a. Mobile Home Park |
| 5. Low Income Housing | b. Travel Trailer Park |
| 6. Dwelling, two family | c. Secondary Structure |
| 7. Home occupation | 11.* Subdivision |
| 8.*Family Child Care (See Sec. 339) | |

Conditional Uses:

- | | |
|--|---|
| 1. Auto service station | 16. Public facility (See Sec.340) |
| 2. Animal hospital | 17. Recreation, indoor |
| 3. Banks | 18. Recreation, outdoor |
| 4. Car Wash | 19. Redemption and Recycling |
| 5. Commercial & fraternal accommodations | 20. Religious institution |
| 6. Contractor's yard | 21. School (See Sec.340) |
| 7. Eating establishment | 22. Service & repair |
| 8. Health care facility (Sec.340) | 23. Theaters |
| 9. Lodge or club | 24. Warehouse |
| 10. Lounge | 25. Wholesale business |
| 11. Manufacturing | 26. Livestock and pets |
| 12. Motor vehicle sales & service | 27. Wind Energy Facility (See Sec. 331) |
| 13. Museum | 28. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec. 332) |
| 14. Retail Business | 29. Residential Care/Group Home (See Sec. 338) |
| 15. Multifamily Dwellings (See Sec. 336) | |

*Requires site plan review and approval by the Planning Commission.

Minimum Area and Dimensional Requirements:

Lot area, square feet:	7000
Lot width, feet:	70
Lot depth, feet:	80
Front yard, feet:	45
Side yard, feet;	10
Rear yard, feet	10
Maximum Building Height. Ft.	35

Table 205.5: C1, Commercial 1

The commercial 1 district encompasses those areas in Barton Village and Orleans Village where commercial development exists, and are designed to preserve the character of the community while providing a readily accessible area for the continuation and expansion of commercial services. 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, or dwelling | 11. Planned Unit Development |
| 2. *Banks | including:(See Sec. 325) |
| 3 * Car Wash | a. Mobile Home Park |
| 4. *Commercial & fraternal accommodations | b. Travel Trailer Park |
| 5. Dwelling, single family | c. Secondary Structure |
| 6. Dwelling, two family | 12. Retail Business |
| 7. *Essential services (See Sec.340) | 13.* Subdivision |
| 8. Home occupation | 14. Low Income Housing |
| 9. *Motor vehicle sales & service | 15. *Family Child Care (See Sec. 339) |
| 10.*Personal & professional service | |

Conditional Uses:

- | | |
|----------------------------------|--|
| 1. Animal Hospital | 16. Public Facility (See Sec.340) |
| 2. Dwelling, multi-family | 17. Recreation Indoor |
| 3. Contractors Yard | 18. Recreation, Outdoor |
| 4. Eating Establishment | 19. Recycling and Redemption |
| 5. Earth resources extraction | 20. Religious Institution |
| 6. Freight terminal | 21. Recycling and Redemption |
| 7. Fuel storage | 22. Reservoirs |
| 8. Health care facility(Sec.340) | 23. School (See Sec. 340) |
| 9. Heavy Equipment | 24. Service and Repair |
| 10. Industrial use | 25. Theatre |
| 11. Lodge or club | 26. Warehouse |
| 12. Lounge | 27. Wholesale business |
| 13. Manufacturing | 28. Kennel |
| 14. Museum | 29. Wind Energy Facility (See Sec. 331) |
| 15. Parking lot | 30. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec.332) |
| | 31. Multifamily Dwellings (See Sec. 336) |
| | 32. Residential Care/Group Home (See Sec. 338) |

* Requires site plan review and approval by the Planning Commission.

Minimum Area and Dimensional Requirements:

Lot area, square feet:	No Minimum
Lot width, feet:	50
Lot depth, feet:	80

Front yard, feet:	30
Side yard, feet	5
Rear yard, feet:	5
Maximum building height, feet:	35

=====

Table 205.6: C2, Commercial 2

Purpose:

The commercial 2 district encompasses those areas adjacent to Barton Village and Orleans Village where commercial development is limited or presently does not exist, and are designed to preserve the character of the community while providing a readily accessible area for the establishment of new commercial services. 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, or dwelling | 11. *Parking Lot |
| 2. * Auto service station and Service | 12. *Personal or Professional Services |
| 3. * Banks | 13. Planned Unit Development including: (See Sec. 325) |
| 4. * Car Wash | a. Mobile Home Park |
| 5. * Commercial & fraternal accommodations | b. Travel Trailer Park |
| 6. *Essential services (See Sec.340) | c. Secondary Principal Structure |
| 7. Home occupation | 14. Low Income Housing |
| 8. Single Family Home | 15. Livestock and Pets |
| 9.*Subdivision | |
| 10. *Family Child Care (See Sec. 339) | |

Conditional Uses:

- | | |
|--------------------------------------|------------------------------------|
| 1. Animal hospital | 18. Public facility (See Sec. 340) |
| 2. Contractor's yard | 19. Recreation, indoor |
| 3. Commercial Junkyard | 20. Recreation, outdoor |
| 4. Eating establishment | 21. Recycling and Redemption |
| 5. Earth resources extraction | 22. Religious institution |
| 6. Freight terminal | 23. Reservoirs |
| 7. Fuel storage | 24. Retail Business |
| 8. Health care facility(see Sec.340) | 25. Sawmill |
| 9. Heavy Equipment Sales & Serv. | 26. School (See Sec. 340) |
| 10. Industrial use | 27. Service & repair Station |
| 11. Kennel | 28. Solid Waste Transfer |
| 12. Lodge or club | 29. Theaters |
| 13. Lounge | 30. Warehouse |
| 14. Manufacturing | |

- | | |
|--|--|
| 15. Museum | 31. Wholesale business |
| 16. Motor Vehicle Sales | 32. Multifamily Dwellings (See Sec. 336) |
| 17. Wind Energy Facility (See Sec.331) | 33. Residential Care/Group Home (See Sec. 338) |
| | 34. Commercial Storage of Abandoned/Wrecked Motor Vehicles (See Sec.332) |

* Requires site plan review and approval by the Planning Commission.

Minimum Area and Dimensional Requirements:

Lot classification	A	B	C
Lot area, acres:	0.67	1.0	2.0

Minimum Area and Dimensional Requirements (continued)

Lot width, feet:	90	100	150
Lot depth, feet:	80	100	150
** Front yard, feet:	50	50	50
Side yard, feet:	20	20	20
Rear yard, feet:	<u>10</u>	<u>10</u>	<u>10</u>
Maximum building height, feet:	35	35	35

** In no case less than 25 ft. from the front property line or right-of way limit.

LOT CLASS DESCRIPTIONS:

CLASS

- 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 205.7: Industrial

Purpose:

This district provides for the continuation and establishment of manufacturing employment in the community. Industrial areas are designated based on existing settlement patterns, and existing facilities such as utilities, highways and railroad access. 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, or dwelling | 19. Planned Unit Development
(See Sec. 325) |
| 2. *Animal Hospital including | a. Mobile Home Park |
| 3. Low Income Housing | b. Travel Trailer Park |
| 4. *Contractor's yard | c. Secondary Structure |
| 5. *Eating Establishment | 20. * Public Facility (See Sec.340) |
| 6. *Earth resources extraction | 21. * Religious Institution |
| 7. *Freight terminal | 22. * Sawmill |
| 8. *Fuel storage | 23. * School (See Sec. 340) |
| 9. *Health Care Facility(See Sec.340) | 24. * Service and Repair |
| 10. *Heavy equipment sales & serv. | 25. * Subdivision |
| 11. Home occupation | 26. * Solid Waste Transfer
Station |
| 12. *Industrial use | 27. * Theaters |
| 13. *Kennel | 28. * Recycle and Redemption |
| 14. *Lodge or Club | 29. * Warehouse |
| 15. *Lounge | 30. * Wholesale business |
| 16. *Manufacturing | 31. * Commercial Storage of
Abandoned/Wrecked Motor
Vehicles (See Sec.332) |
| 17. *Museum | |
| 18. *Family Child Care (See Sec. 339) | |

Conditional Uses:

- | | |
|---|---|
| 1. Auto service station | 8. Parking Lot |
| 2. Banks | 9. Personal or professional |
| 3. Car Wash services | |
| 4. Commercial & fraternal
accommodations | 10. Recreation, indoor |
| 5. Essential service | 12. Recreation, outdoor |
| 6. Motor vehicle sales & repair | 13. Retail business |
| 7. Wind Energy Facility (See Sec.331) | 14. Reservoirs |
| | 15. Multifamily Dwellings (See
Sec. 336) |
| | 16. Residential Care/Group Home
(See Sec. 338) |

* Requires site plan approval by the Planning Commission.

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 205.8: Shoreland District

Purpose:

This district provides for the development, promotion, and protection of shoreland surrounding Crystal Lake, May Pond, Baker Pond and Wheeler Pond. The depth and permitted densities of this district is determined by existing development 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 values of this district.

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

Shoreline Buffer Zone:

All development within 250 ft. of shorelines will require Planning Commission review for compliance with the "Special Provisions for Development of Shoreline Buffer Zones" incorporated within the by-law, which provide for the protection of water quality.

Permitted Uses (All subdistricts):

- | | |
|---|---|
| 1. Accessory use, structure or dwelling | 5. Dwelling, two family |
| 2 * Commercial & Fraternal accommodations | 6. * Home occupation |
| 3 * Development as defined under 3 of the " Special provisions for development of shoreline buffer zones. | 7. Planned Unit Development including:
a. Mobile Home Park
b. Travel Trailer Park
c. Secondary Principle Structure |
| 4. Dwelling, single family | 9. Low Income Housing |
| 5.* Subdivision | 10. *Family Child Care (See Sec. 339) |

Conditional Uses:

- | | |
|------------------------------------|---|
| 1. Multifamily Housing | 3. Shoreland Recreational |
| 2. Essential service (See Sec.340) | 4. All other Conditional Uses for the districts as referenced below |

* Requires site plan approval by the Planning Commission

Minimum Area and Dimensional Requirements:

- | | |
|-------|---|
| SL-R | See Remote district requirements. |
| SL-LD | See Low Density district requirements. |
| SL-MD | See Medium Density district requirements. |
| SL-HD | See High Density district requirements. |
| SL-C | See Commercial district requirements. |

Shoreline setback requirement: 25 ft. from mean water level. Independent accessory use structures may be located closer to the shoreline than the setback requirement otherwise imposed, but in no event shall any boathouse or other building extend beyond the limits of the shoreline. (Seasonal boat docks are exempt from the Shoreland Setback requirements of the district)

Sec 205.01: Special Provisions For Development of Shoreline Buffer Zones

In addition to those dimensional requirements and uses allowed in the designated Shoreland district, the following special development provisions shall apply to:

- a. All new land uses within 250 feet of designated shorelines.
- b. Changes, enlargements, or modifications to existing uses that the planning commission determines will or are likely to increase wastewater flow or stormwater runoff.

1. No subsurface wastewater disposal system shall be located within 100 ft. of the seasonal high water level. This distance may be reduced to 50 ft. based on planning commission review and approval of a wastewater disposal system meeting (at a minimum) the current technical requirements of the State of Vermont Agency of Natural Resources- "Environmental Protection Rules and Related Statues " effective August 16, 2002, with regard to the following criterion.

<u>CRITERION:</u>	<u>REQUIREMENT:</u>
a. Separation from bottom of disposal trench or bed to high seasonal water table	3 ft.
b. Separation from bottom of disposal trench or bed to bedrock or ledge	4 ft.
c. Disposal Field Infiltrative Area	See above regulations
d. Minimum distance from Water Supply Source to Disposal Field	See above regulations 100 ft. minimum

Plans shall include a certification from the designer, stating design compliance with said rules.

2. Applications for non- residential development shall include and receive planning commission approval of detailed plans providing for treatment and/or settlement of stormwater run-off from parking and hard surface areas. Parking areas for all uses (under this category) shall be located no closer than 25 ft. from the shoreline without approval of the planning commission. 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.

3. Plans for development, excavating, or filling areas larger than 250 sq. ft. and within 25 ft. of the shoreline shall include provision for prompt stabilization of soils and the establishment of growth.

4. Surface or subsurface storage of liquids or hazardous wastes which, in the view of the planning commission pose a clear and significant threat to water quality in the event of a spill or containment breach, shall not be permitted.

5. 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.

6. Exterior lighting shall be designed and located in such a manner so as to not cause undue glare onto the adjacent water body.

7. No use shall be allowed which causes undue adverse quantities of dust or other air borne foreign particles to deposit, settle, or otherwise fall onto the surface of the adjacent water body.

8. For all new non-residential uses within the buffer zone, the planning commission 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 or other special action by the Board of Adjustment 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 Board of Adjustment 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 adversely affect:

- A. The capacity of existing or planned community facilities;
- B. The character of the area affected;
- 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 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 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 Board of Adjustment to permit the specifying of new conditions.

207.03 As a condition of the grant of a conditional use, the Board of Adjustment 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:

No subdivision, as defined under these By-laws, 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 by-law.

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 Shoreland "Buffer Zone" 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 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 Planning Commission 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 to 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 Planning Commission may require a right-of-way up to 50 feet in width to ensure public safety and orderly development. Access on a Town Road must be permitted by the Town Select Board. Access on a state highway must be permitted by the Vermont Agency of Transportation.

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 for an occupation which:

1. Is customary 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 area in which it is located.

Sec 305: Lots in Two Zoning Districts

Where a district boundary line evenly or near evenly divides a lot of record at the time such district boundary line is adopted, whereby the resulting smaller portion constitutes no less than 40% of the total lot area, the regulations for the less restricted part of the lot shall apply, provided that the lot has frontage on a street or right-of-way in the less restricted district, otherwise the regulations for the more restricted part shall apply. For lots whereby the resulting smaller portion constitutes less than 40% of the total lot area, the regulations governing the larger portion 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.

308.2 The following structures are exempt from the provisions of the bylaw unless subject to the provisions of section 313:

- a. Fences
- b. Mailboxes
- c. Small temporary pet structures

308.3 The following structures are exempt from the setback requirements of this Bylaw, however their location shall be subject to the review and approval of the Planning Commission or the Zoning Board of Adjustment if part of a larger project under site plan or conditional use review. Under this Section, said structures shall not be located within the Town or Village right-of-way, however, if the Town or Village grants use of their respective rights of way to an Applicant for the duration of any of the exempted structures listed under this section, the Town or the Village may, upon written notice to the Planning Commission, exercise its right to recall and reclaim said right of way or any portion thereof. Furthermore, the issuance of any conditional use permit or site plan review permit may be subject to said recall, based upon the public needs of the Town or Village at that time:

- a. Fences
- b. Mailboxes
- c. Small temporary pet Structures
- d. Signs (see Sec. 317.06)
- e. essential service structures as approved by the planning commission.
- f. small garden or storage sheds no greater than 6ft. x 8ft. in size.
- g. Handicapped Access Ramps (must comply with Americans with Disabilities Act (ADA) guidelines and requirements to qualify under this Section)

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.

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

Construction sites on which work has temporarily or permanently terminated, shall be securely fenced off and/or all open excavations shall be filled. Structures which have become unsafe due to abandonment, fire damage, or demolition shall be repaired or removed from site within 3 months of written notice from the Zoning Administrator. Foundation excavations remaining shall be either fenced off or filled to normal grade. The Zoning Board of Adjustment 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 25 feet away from their intersection, there shall be no continuous obstruction of vision between the height of three feet and ten 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 average ground level.

The following structures are exempt from the district height regulations.

- | | |
|-----------------------------|---------------------------------|
| 1. Silos | 5. Powerline towers |
| 2. Churches | 6. Flag Poles |
| 3. Industrial Smoke Stacks | 7. Other structures as approved |
| 4. Necessary HVAC equipment | by the Planning Commission |

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 Zoning Administrator. All above-ground pools of 24ft. x 12ft. in size or larger must meet the set-back requirements for the district in which it is located.

Sec 316: Off Street Parking and Loading Space Requirements:

For every building hereafter erected, altered, extended, or changed in use, there shall be a minimum number of off street parking spaces and off street loading spaces as follows:

OFF STREET PARKING SPACE REQUIREMENTS:

- | | |
|------------------------------------|-----------------------------------|
| A. 4 per 3 dwelling units | |
| B. 1+1/300 sq. ft. of office space | I. 1/business vehicle + |
| C. 1+1/lodging or dwelling unit | 1/employee on largest shift |
| D. 1/2 beds | J. 1/500 sq. ft. of floor area |
| E. 1/5 seats in assembly area | K. None required |
| F. 1/200 sq. ft. of office area | L. Plan. Comm. determines |
| G. 1/250 sq. ft. of floor area | M. 5+1/campsite |
| H. 1/150 sq. ft. of floor area | X. 1/10,000 sq. ft. of floor area |
| | Y. 1/7,500 sq. ft. of floor area |

Use	Parking Requirement
Accessory use or structure	B and X
Accessory Dwelling	K
Agriculture (See sec. 205)	K
Animal hospital	F and X
Auto service station	G, I, and X
Banks	F, I, and X
Camps	K
Car wash	G, I, and X
Commercial and fraternal accommodations	C and X
Commercial Storage of Abandoned Vehicles (Sec 332)	L
Contractor's yard	I and X
Commercial Junkyard	I and X
Dwelling, single family	C
Dwelling, two family	C
Earth resources extraction	K
Eating establishment	H and X
Essential services	K
Family Child Care	J
Freight terminal	I and Y
Fuel storage	I and Y
Health care facility	D, F, and X
Heavy equipment Sales & Service	F, I, and X
Home occupation	B
Industrial use	I and X
Kennel	J
Landfill	K
Lodge or club	D, E, and X
Lounge	H and X
Low & Moderate Income Housing	C
Manufacturing	I and X
Mobile home park	A
Motor vehicle sales and repair	G, I, and X
Multifamily Dwellings	A
Museum	L, I
Parking Lot	L
Personal or Professional Services	G, I, and X
Professional office	F and X
Public facility	(G or L) and X
Recreation, indoor	(G or L) and X
Recreation, outdoor	L
Recycling and Redemption	I
Religious institution	E, J, and X
Reservoirs	K
Residential Care/Group Homes	L
Retail business	G, I, and X
Sawmill	J and Y

School	((E and I) or L) and X
Service and repair	G, I, and X
Solid Waste Transfer Station	I, L,
Subdivision	L
Theaters	E, I, and X
Travel trailer park	M
Warehouse	F, I, and Y
Wholesale Business	F, I, and Y
Wildlife refuge	K
Telecommunication	L
Wind Energy Facility	K

316.01 All proposed new driveways shall be at least twenty 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 feet wide by eighteen 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 Planning Commission 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 are not consistent with the proposed use. When the use of developed lots with non-conforming parking is expanded or changed the planning commission may take into account existing on street parking.

316.03 With the approval of the Planning Commission, 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 Planning Commission.

Sec 317: Signs, number and surface area:

For the purpose of determining 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 Residential Districts:

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

317.02 Signs in commercial 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 Planning Commission.
- C. Free standing signs shall not exceed 100 sq. ft.
- D. One directory sign not exceeding four square feet in area.

317.03. Signs in Industrial District:

A. Signs proposed for the Industrial District shall be as approved by the planning commission when proposed signage area exceeds the dimensional limits of the commercial district.

317.04 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 square feet in area.
- B. Roof signs not be permitted in any zoning district, except

Industrial.

317.05 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 properties.
- B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.

317.08 Special Signs:

Special signs in regards to civic functions may be permitted upon approval of the Planning Commission.

OFF PREMISE SIGNS

The following signs may be located off premise. Written permission must be received from the nearest landowner abutting the right-of-way on which the sign is located.

- A. Signs located on or in the rolling stock of common carriers.
- B. Signs on registered and inspected motor vehicles except

- those which are determined by the travel information council to be circumventing the intent of State Statute.
- C. Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of common carriers by in area, excluding panel and frame, which may show the place and time of services or meetings of churches and civic organizations in the town, and which may include a panel which identifies the name of the town, the charter date, the date the town was founded, or any other significant date in the history of the town, and which the town wishes to identify. The panel may bear the wording "welcome to" the particular town. Not more than two such signs may be erected and maintained readable by traffic proceeding in any one direction on any one highway. The signs shall meet the criteria of the transportation agency and the travel information council.
 - E. Residential directional signs of 4 square feet or less in area, may be located outside the highway Right of Way of highways other than limited-access facilities. A state license is required if the person maintains a professional, commercial or business activity at the residence and wishes to indicate its existence.
 - F. Official traffic control signs.
 - G. Signs of a duly constituted governmental body including traffic and similar regulatory devices, legal notices or warnings at railroad crossings.
 - H. Small signs displayed for the direction, instruction or convenience of the public, including sign which identify rest rooms, freight entrances, posted areas or the like, with a total surface area not exceeding 4 square ft.
 - I. Signs to be maintained for not more than two weeks announcing an auction, or a campaign, drive or event of a civic, philanthropic or religious organization.
 - J. Memorial signs or tablets.
 - K. Signs erected by county fairs and expositions for a period not to exceed six weeks.
 - L. Directional signs, subject to regulations promulgated by the bureau of public roads, having a total surface area not exceeding 4 square, which provide directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place.

Sec 318: Earth Resources including Sand and Gravel

In accordance with Section 4410 of the Act, in any district 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 Board of Adjustment and after a public hearing. In any district, the following provisions shall apply:

318.01 Before approval of any new or extension to a sand or gravel

operation, a performance bond may be secured from 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 condition. Under the supervision and to the satisfaction of the Board of Adjustment, the operation 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 Board of Adjustment.

318.05 All excavation slopes in excess of two (horizontal) to one (vertical) shall be adequately fenced as approved by the Board of Adjustment.

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 Board of Adjustment.

Sec 319.0: Telecommunications Facilities

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

Sec 319.01: The purpose of this Section is to protect the public health, safety and general welfare of the Town of Barton 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 while allowing adequate telecommunications services to be developed.
- B. Protect the scenic, historic, environmental, and natural resources of the Town of Barton.
- 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.
- 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 Zoning Board of Adjustment of the Town of Barton is authorized to review, approve, conditionally approve, and 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 Board 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 Zoning Board of Adjustment 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 Zoning Board of Adjustment. The consultants shall work at the Zoning Board of Adjustment's direction and shall provide the Zoning Board of Adjustment such reports and assistance, as the Zoning Board of Adjustment 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 only the remote, low density and medium density 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 Zoning Board of Adjustment.

In addition to information otherwise required in this Bylaw, applicants for telecommunications towers or facilities shall include the following supplemental information:

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
- B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting property.
- D. A report from qualified and licensed professional engineers that:
 - i. Describes the facility height, design and elevation.
 - ii. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.
 - iii. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate.
 - iv. Documents steps the applicant will take to avoid interference with any established public safety telecommunications, and includes both an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
 - v. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within 30 miles of the proposed site cannot reasonably be modified to provide adequate coverage and adequate capacity to the Town of Barton.
 - vi. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
 - vii. Describes the output frequency, number of channels and power output per channel for each proposed antenna.
 - viii. Includes a written five-year plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
 - ix. Demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and support structures.

- x. Provides proof that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The Zoning Board of Adjustment may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
 - xi. Includes other information required by the Board that is necessary to evaluate the request.
 - xii. Includes an engineer's stamp and registration number.
- E. A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this bylaw.
 - F. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
 - G. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - H. A copy of the application or draft application for an Act 250 permit, if applicable.

The permit application shall be signed under the pains and penalties of perjury.

Sec 319.06 Site Plan Requirements: In addition to site plan requirements found elsewhere in the Town of Barton's Zoning Bylaws, 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.
- F. Construction sequence and time schedule for completion of each phase of the entire project.

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

Sec. 319.07 Collocation Requirements: An application for a new telecommunications tower shall not be approved unless the Zoning Board of Adjustment finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
- C. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements.
- D. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.
- E. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.
- F. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- G. There is no existing or approved tower in the area in which coverage is sought.
- H. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

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, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color.
- 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 Planning Commission that the additional height is necessary in order to provide adequate coverage in the Town of Barton 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.
- 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.
- E. All ground based facilities shall be properly fenced and identified by signage that indicates presence of RFR and any other appropriate warnings required by permit conditions.

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 windloading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

Sec. 319.10 Lighting, Signage & Noise: Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular tower because of its height. Any lighting required solely as a result of height may be subject to review by the town. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on a tower.

Noise at the site perimeter from the operation of any machinery or equipment used in connection with any telecommunications facility shall be minimized so as not exceed 50 decibels at a distance of 100 feet from said perimeter, or the property line of the property if placed on an existing structure.

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 Zoning Board of Adjustment 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 Zoning Administrator.
- 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. The owner of a facility/tower shall annually, on January 15, file a declaration with the Zoning Administrator certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
- B. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Zoning Board of Adjustment. In the event the tower is not removed within 180 days 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.
- C. Unused portions of towers shall be removed within 180 days 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.
- D. An owner who has failed to file an annual declaration with the Administrative Officer by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.

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 320: Screened Service Area Requirements

In any district, the Planning Commission 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 either 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: Burned Buildings (See section 312)

Sec. 322: 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 feet from all property lines and twenty 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 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 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 323: 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 the Medium Density and High Density zoning districts only. Such activities shall be permitted uses within the Remote Density and Low Density zoning districts and prohibited in the Commercial 1, Industrial and Shore Land districts. Household pets are exempted from these provisions provided that there are not more than four cats and/or two dogs over six months old per dwelling unit. The minimum lot size under this Section for this use shall be at least $\frac{1}{2}$ of an acre or more in size. The following limitations shall apply:

- A. Cattle: No more than three per $\frac{1}{2}$ acre.
- B. Horses: No more than three per $\frac{1}{2}$ acre.
- C. Hogs: No more than four per $\frac{1}{2}$ acre.
- D. Goats: No more than four per $\frac{1}{2}$ acre.
- E. Sheep: No more than four per $\frac{1}{2}$ acre.
- F. Lamas or Alpacas: No more than three per $\frac{1}{2}$ acre.
- G. Poultry or Fowl: No more than twelve per $\frac{1}{2}$ acre.
- H. Ostriches or Emus: No more than three per $\frac{1}{2}$ acre.
- I. Deer: No more than three per $\frac{1}{2}$ acre.
- J. Combination of Species: Except for fowl, no more than a total of three animals per $\frac{1}{2}$ acre.
- K. Rabbits: No more than ten per $\frac{1}{2}$ acre.

Under all circumstances, there shall be adequate provision for the care and needs 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 324: Required information for Zoning permits, Site Plan Review, Conditional Use permits, and PUD Applications

The applicant shall submit 3 sets of site plan maps and supporting data and applications to the Zoning Administrator, 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.

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

III. ADDITIONAL INFORMATION WHICH MAY BE REQUESTED

The applicant may attend a regularly scheduled Planning Commission or Zoning Board of Adjustment 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.

324.02 Site Plan Review Procedure

- A. The Planning Commission shall conform to the requirements of 24 VSA, Section 4416 of the Act before acting upon any application.
- B. In considering its action the Planning Commission 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 Commission 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.
 6. In addition, (only after vote of the commission to do so) the commission may further consider and impose appropriate conditions necessary to make positive findings with regard to the following criteria.
 - a. The character of the area affected.
 - b. Traffic on roads and highways in the vicinity.

Sec 325: Planned Unit Development (PUD)

The Planning Commission is hereby empowered to vary certain zoning regulations under the criteria and procedures established in 24 VSA, Section 4464 of the Act. If requested in the project application, the Planning Commission may simultaneously review a subdivision plat.

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

325.02 The purpose (conditions) of planned unit development shall be to encourage a development which will result in:

- A. A choice in the type of environments and living units available to the public, and quality in residential land uses so that development will be a permanent and long term asset to the town.
- B. Open space and recreation areas (if appropriate).
- C. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
- D. An efficient use of land resulting in small networks of utilities and streets.
- E. An environment in harmony with surrounding development.
- F. A more desirable environment than would be possible through the strict application of other sections of this bylaw.

325.02 Density may vary within the development as approved by the planning commission.

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 in a 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 Planning Commission 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 is to be aesthetically harmonious with surrounding developed lands, (if developed), and will not unreasonably conflict with the intended land use designation of the district.
2. The granting of setback or density waivers (if any) does not cause an undue and adverse affect, on the use of, or cause an undue unsafe condition on, 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 affect 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, solid waste, fire protection and emergency services.

10 The project will not cause undue and adverse impact on identified floodways.

11. Consideration of Mitigating Factors:

If in the event the board or planning commission is unable to make positive (written) findings on all criterion, it may give due consideration to any mitigating economic or social factors which may sufficiently mitigate one or more negative findings.

The planning commission 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.

325.06 The Planning Commission may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development, provided the rules and regulations are not inconsistent with the zoning bylaw. The Planning Commission shall hold a public hearing after public notice as required by Section 4464 of the Act, prior to the establishment of any supplementary rules and regulations for planned unit development.

Sec 326: Travel Trailers

It shall be unlawful for a travel trailer, pickup camper or motor home to be utilized as a permanent home 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

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 Board of Adjustment.
- B. Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted to the Vermont Department of Water Resources and Environmental Engineering by the Administrative Officer in accordance with 24VSA 4424(D). A permit may be issued only following receipt of comments from the Department 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 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 Board of Adjustment 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 floodproofed;
 - 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 Board of Adjustment for determining the suitability of the site for the proposed development.
2. Obtain from the Vermont Department of Water Resources or other state or federal agencies any available base flood elevation data.

B. In reviewing each application, the Board of Adjustment shall consider:

1. The evaluation of the Vermont Department of Water Resources.
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 Board of Adjustment 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 floodproofed 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.

I. 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.

327.06 Duties and Responsibilities of the Administrative Office

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 floodproofed.
- D. All floodproofing certifications required under this regulation.
- E. All variance actions, including justification for their issuance.

327.07 Variances

Variances shall be granted by the Board of Adjustment 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: Streambanks

No development shall occur within 50 feet of the seasonal high water mark of any 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 control.

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 and Commercial 2 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 Zoning Board of Adjustment 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 Zoning Board of Adjustment. 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: Variances

In reviewing each application for a variance, the Board of Adjustment shall render a decision in favor of the applicant/appellant only if the Board 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 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 regulation and from the plan.

Sec 331: Wind Energy Facilities

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 less than, 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 power company rules, regulations and standards.
 5. Not include any exterior lighting unless required by the Federal Aviation Administration (FAA)

- 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 two (2) years of cessation of operations or use, or when the tower structure becomes structurally unsound, unless the Zoning Board of Adjustment approves a time extension.
 - 2. If the system is not removed or dismantled within the two (2) years 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 all zoning districts. All appropriate and applicable regulations within each zoning district must be complied with including any conditions that may be required by the Zoning Board of Adjustment. 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. In the event that the business has more than one location within the Town, only one business location may be used for storage by unless otherwise approved by the Planning Commission. The Planning Commission may require an increase or allow a decrease in the number vehicles specified under this sub-section if the Commission finds that the normally required number of vehicles are not consistent with the proposed use.

Sec 333: Low and Moderate Income Housing

No provision of this bylaw may have the effect of excluding from the municipality low and moderate income housing or housing to meet the needs of the population as determined in accordance with 24 V.S.A. § 4382(c).

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

Pursuant to 24 V.S.A. § 4412 (1)(B), a mobile home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this bylaw. No zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

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 permitted as a permitted use in all 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 Planning Commission.

Sec 336: Multifamily Dwellings

This bylaw shall not have the effect of excluding multiunit or multifamily dwellings from the Town of Barton. 24 V.S.A. § 4412(1)(D). A multifamily dwelling shall be considered a conditional use in all zoning districts. Multifamily dwellings shall be subject to the following conditions in addition to those which may be required by the Zoning Board of Adjustment:

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 shall be a permitted use in all zoning districts. 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 35 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 to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted 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 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. 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. 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 Limitations (Public Facilities)

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:

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

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-complying 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 Zoning Board of Adjustment, 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 Zoning Board of Adjustment, and then only to a use which, in the opinion of the Zoning Board of Adjustment 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 Expansions

The Board of Adjustment 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, buffers, and lowest floor elevation in floodplain zoning) 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 razed 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 Zoning Board of Adjustment, 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 Zoning Board of Adjustment 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 negative impact 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.

403.06 Expansions: The Board of Adjustment 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.

404.0 Establishment of Secondary Principal Structure

The establishment of a secondary principal structure on a single building lot may be permitted upon issuance of a PUD approval by the Planning Commission. Under the provisions of this section there is no requirement to identify a dedicated lot area to each structure. However, all structures must comply with the setback provisions of the district. No subdivision shall occur on lots on which a secondary structure has been established after the effective date of these by-

laws unless each lot meets all area and setback requirements of the district.

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: Individual 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 35 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. Such use or structure shall not exceed, in area, 50% of the principal use or structure.

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 with in 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. A 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 provider 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 sides

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 Planning Commission 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.

CAMP: The use or construction of one or more independent buildings or structures whose purposes are to serve common functions for a united purpose such as a Scout Camp, Boys or Girls Camp, or Training Camp, etc.

CAR WASH: A structure containing facilities for washing automobiles including 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: A plot of ground used, or intended to be 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 & FRATERNAL ACCOMMODATIONS: A facility offering transient lodging accommodations to either the general public or to members of the fraternal organization that owns such facility. This shall include, but not be limited to, inns, boarding houses, motels, hotels, bed and breakfast facilities.

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'S YARD: An area of land used by a contractor for the storage & use of his material &/or equipment.

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 residential building designed for or occupied by 3 or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE FAMILY: A detached residential dwelling unit designed for & occupied by 1 family only.

DWELLING, TWO-FAMILY: A residential building designed for or occupied by 2 families living independently of each other in individual 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 1000 (horizontal) square feet.

EATING ESTABLISHMENT: Retail establishments selling food & drink for immediate consumption on or off the premises, including

restaurants, lunch counters, & refreshment stands.

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 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 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.

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.

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, & bioanalytical laboratory or central services facility serving 1 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: Accessory use of a dwelling solely by the residents thereof, provided: such use utilizes an area of or involves a use expansion less than 50% of the 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.)

INDUSTRIAL USE: Those fields of economic activity including mining; construction, manufacturing, transportation, communication, electric, gas, sanitary services; & wholesale trade.

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 more than 6 months old are housed, groomed, bred, boarded, trained or sold.

LANDFILL: A lined solid waste disposal facility.

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.

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 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 are 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.

MUSEUM: Land use or place for exhibit of artistic, historic, or educational items or displays.

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 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 COMMUNICATIONS SERVICES or PCS: Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology may allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).

PERSONAL & PROFESSIONAL SERVICES: Establishment engaged in providing services to individuals or other establishments

PERSONAL WIRELESS SERVICES: Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

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: Any building or structure whose use, actual oriented, is not subordinate to any use located in another building on the same lot.

PUBLIC FACILITY: Usage by agencies & departments of local, county, state & federal government. Including:

- A. Correctional includes such functions as jail, correctional institution, prison.
- B. Educational includes such functions as elementary, day-care, preschool, kindergarten, junior high & high schools,

- college, vocational or technical school.
- C. Office includes such functions as governmental office, laboratory, post office, clinic, or library.
- D. Public Safety includes such functions as fire, police, rescue, ambulance, hospital.
- E. Public Assembly Use includes auditorium, theatre, public hall, school hall, meeting hall.
- F. Service includes such functions as garage, warehouse, liquor store.
- G. Public Water, Public Sewer. Water supply & sewage disposal systems approved by the town for municipal operation.

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 pitch & putt course, par 3 golf course, outdoor amusement park, hunting preserve, yacht club, golf course, trap, skeet, or archery range, (nonresidential swimming pool, skating rink, riding stable, tennis court) park, & beach, recreation stadium, skiing facility, playground, playfield, park open space and other similar uses as approved by the planning commission.

REDEMPTION AND 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 RESOURCES: Means energy available for 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 BUSINESS: Includes enclosed restaurant, cafe, shop & store for the sale of retail goods, personal service shop & department store; & shall exclude any drive-in service, free standing retail stand, gasoline service & motor vehicle repair service, new & used motor vehicle sales & service, trailer & mobile home sales & service.

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 far away 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.

SERVICE AREA: An area of land used for the storage of trash receptacles or equipment such as eating establishments.

SECONDARY STRUCTURE: The establishment of a second principal structure on a single lot of record, excepting home occupation.

SELF-SUPPORTING TOWER (Telecommunications): A communications tower that is constructed without guy wires.

SERVICE & REPAIR: A structure that is used to service & repair motor vehicles, bicycles, &/or appliances.

SIDE LOT LINE: A lot line that is neither a front lot line nor a rear lot line.

SHORELINE RECREATIONAL: Land use including Bike and Snow machine trails, Cross country Skiing, Small Boat Rental Facility and similar uses as approved by the Planning Commission.

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 Zoning Board of Adjustment 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 comparative analysis.

TOWER (Telecommunications): A vertical structure for antenna(s) that provide telecommunications services.

TRAVEL TRAILER OR TRAILER: Any vehicle used or so constructed as to permit its being used as a conveyance on the public streets & highways &, whether licensed or not, constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for 1 or more persons. A trailer under this local law shall also mean tent trailers, truck campers, vehicles converted to sleeping facilities other than a mobile home &/or what normally constitutes a permanent dwelling unit. This definition includes uses to which trailers might be put.

TRAVEL TRAILER PARK: A parcel of land on which 3 or more travel trailers are occupied and utilized for sleeping purposes.

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 Barton Zoning Board of Adjustment in accordance with the provisions of 24 VSA 4468.

WAREHOUSE: A structure utilized for bulk storage.

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). Also called omnidirectional, stick or pipe antennas.

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 resale 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

602.01 No land development, as defined in Section 4303(10) of the Act, may be commenced without a permit therefor issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer except in conformance with this bylaw.

602.02 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:

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 Zoning Board of Adjustment or the Planning Commission 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 either panel or both.

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 Zoning Board of Adjustment or the Planning Commission and/or applicable state agency for consideration. In accordance with 24 V.S.A. §4448 and 4449, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- (2) No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Zoning Board of Adjustment or the Planning Commission, or the Select Board, until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- (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)).

- (4) A zoning permit shall include a statement of the time within which appeals may be taken under 24 V.S.A. § 4464; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
- (5) No zoning permit shall take effect until the time for appeal under 24 V.S.A. § 4464 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

602.04 In the issuance of zoning permits, the Administrative Officer shall comply with all of the provisions of Section 4443 of the Act.

602.05 The fee for a zoning permit shall be established by the Legislative Body. It may be a sliding scale depending upon the cost of the land development. Said fee shall accompany each application for a permit.

602.06 Appeals

Any interested person as defined under the Act [§4465] 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 Zoning Board of Adjustment/Planning Commission, or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

- (1) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board 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 Board 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 Board 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 Board from time to time, provided that the date and place 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 Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th 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.

602.07 A Zoning permit is required prior to subdivision of land which results in two or more building or non-building lots.

602.08 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 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 Board of Adjustment/Planning Commission, 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.

602.09 Appeals to the Environmental Court:

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Zoning Board of Adjustment/Planning Commission may

appeal a decision rendered by the Board/Commission 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 Zoning Board of Adjustment/Planning Commission 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 603: Certificates of Occupancy

603.01 In conformance with 24 VSA 4449(a)(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 bylaw, until a certificate of occupancy is issued therefor by the Administrative Officer stating that the proposed use of the structure or land conforms to the requirements of this bylaw.

603.02 Applications for certificates of occupancy shall be made to the Administrative Officer on forms provided by him for that purpose.

603.03 Prior to the issuance of any certificate of occupancy, the Administrative Officer shall first satisfy himself that the proposed use of the structure or land conforms to the requirements of this bylaw.

603.04 The fee for a certificate of occupancy shall be established by the Legislative Body. Said fee shall accompany each application for a certificate of occupancy.

Sec 604: Violations and Penalties

The commencement or continuation of any land development or subdivision that 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. § 4444(a)].

604.01 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 of violation also shall be recorded in the land records of the municipality under 24 V.S.A. § 4443(c)(1)(A). 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.

604.02 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.

Sec 605: Board of Adjustment and Planning Commission

605.01 The Legislative Body shall appoint a Zoning Board of Adjustment and a Planning Commission consisting of not less than five (5) nor more than nine (9) members who shall act on all matters within its jurisdiction under this bylaw in the manner prescribed in the Act; provided however, that the members of the Zoning Board of Adjustment Planning Commission incumbent on the effective date of this bylaw shall continue in office for the duration of the terms to which they were respectively appointed.

605.02: Rules of procedure applicable to the Zoning Board of Adjustment/Planning Commission, the nature of appeals to the Board from decisions of the Administrative Officer, and all other matters governing the Board or the Commission, are provided for in a separate "Rules of Procedure" adopted by the Board and the Commission [24 V.S.A. § 4462(a)].

Sec 606: Referral to State Agency

In accordance with Section 4409(c) of the Act, no zoning permit for the development of land in certain locations specified in said Section shall be issued by the Administrative Officer without first submitting a report to the appropriate State agency, and compliance with the terms of Section 4409(c).

Sec 607: 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)], and appeals of decisions of the administrative officer and variances [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:

- (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 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. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Zoning Board of Adjustment/Planning Commission 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 Board of Adjustment/Planning Commission or the Environmental Court, the action shall be remanded to the Board 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, Barton Village, and Orleans

Village.

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 May 5, 1986, as amended March 16, 1987 is hereby repealed.

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