

Barnard

Unified Zoning and

Subdivision Regulations

As Adopted by Town Vote
November 6, 2012

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ARTICLE 1: OVERVIEW

1.1 ENACTMENT

Whereas the Town of Barnard, Vermont has created a Planning Commission and has adopted and has in effect a municipal plan pursuant to the Vermont Municipal and Regional Planning and Development Act (24 VSA, Chapter 117), hereinafter referred to as the Act, there are hereby established Zoning Regulations, an Administrative Officer (AO) and a Development Review Board (DRB) for the Town of Barnard.

1.2 PURPOSE

It is the purpose of these Regulations to:

- a) encourage and provide for the appropriate and orderly use and development of all waters, lands and buildings in the Town in a manner which will promote and protect the public health, safety, prosperity, comfort, convenience, and general welfare of its citizens and residents;
- b) protect soil, forests, waters, wildlife, and other natural resources and preserve open land;
- c) encourage a rational pattern of development and settlement, and healthful distribution of population;
- d) protect the public health and environment against all forms of pollution and other hazards, such as explosions, fires and floods;
- e) prevent accidents and the loss of peace and quiet and privacy from the invasion of through traffic, highway congestion, inadequate parking facilities, and overcrowding;
- f) reduce the harm that one land use might have on another;
- g) provide for the improvement of undesirable conditions and to protect property values; and
- h) further the goals, polices and recommendations of the Town Plan and the goals of 24 VSA section 4302.

1.3 AMENDMENT OR REPEAL

Any amendment, repeal of sections or revision of the provisions to these Regulations shall be prepared in accordance with the Act.

1.4 EFFECTIVE DATE

These Regulations, or any amendments thereto, shall become effective 21 days after the date of adoption by the Selectboard, or effective immediately upon passage in the case of a vote of the Town by Australian ballot at a regular or special Town Meeting.

1.5 VALIDITY AND SEVERABILITY

If any section or provision of these Regulations is held to be unconstitutional or invalid by a competent court, such decision shall not affect the validity of the Regulations as a whole or any part thereof other than that part held to be invalid.

1.6 STATUS OF PRIOR REGULATIONS

These Regulations, upon adoption, shall replace and amend in their entirety the Barnard Zoning Regulations in effect prior to that date.

1.7 AVAILABILITY OF DOCUMENTS

Current copies of the Barnard Town Plan and the Barnard Zoning Regulations shall be available to the public during normal business hours at the Town Clerk's office.

1.8 APPLICATION OF ZONING REGULATIONS

All Zoning Permits for development shall be issued in conformance with 24 V.S.A. Section 4449. Except as may have been previously approved under prior Regulations or exempted under these Regulations, no building or land development, construction, conversion, relocation, or enlargement of any building or structure, sitework incidental to development regulated under this bylaw, or extension of use of land may commence without a permit first being issued by the Administrative Officer.

1.9 DEVELOPMENT EXEMPT FROM A PERMIT

The following structures and uses, shall be required to meet the applicable standards of these Regulations, except setbacks, but are otherwise exempt from a permit or any other approval under this regulation. This exemption does not apply to any development within the Flood Hazard Overlay District.

The exempt structures and uses are:

- a) Structures without water hook-ups, such as tents or self-contained travel or camper trailers, located on a lot for less than twelve (12) consecutive months;
- b) Fuel or propane storage tanks used for single or two family purposes;
- c) Structures 144 square feet or less in footprint and twelve (12) feet or less in height;
- d) Unenclosed play structures for personal use (such as jungle gyms, swing sets and trampolines).
- e) Normal maintenance and repair of an existing structure which does not result in exterior alterations in dimension, or an expansion or change of use;
- f) Interior alterations or repairs to a structure which do not result in an increase in the number of bedrooms or a change in use.
- g) Public auctions, garage sales or yard sales not exceeding four (4) consecutive days or more than ten (10) days in a calendar year;
- h) Signs, including one free-standing, on-premise, non-illuminated sign on a lot, which sign shall not exceed three (3) square feet per side and shall be limited to identifying a private residence or a permitted use; one free-standing, on-premise, non-illuminated sign, which sign shall not exceed two (2) square feet per side and shall be limited to the direction, instruction or convenience of the public (i.e. signs identifying restrooms, freight entrances, posted areas, danger areas, etc.); one non-illuminated sign associated with a farm, which sign shall not exceed six (6) square feet per side and shall be limited to the advertising of agricultural products grown on the premises; temporary non-illuminated signs to be maintained for not more than two (2) weeks, which

identify fairs, expositions, auctions, campaign drives, or other events of a civic, political, philanthropic, or religious nature; signs not exceeding two (2) square feet per side for the direction of the public on privately owned or non-profit recreation land; one portable, non-illuminated temporary "sandwich board" sign associated with an on-premise business with a maximum of six (6) square feet per side which shall be removed when the business or activity is not in operation; and temporary signs under 6 square feet such as realtor or contractor signs. See also section 4.7.

- i) Power generation and transmission facilities, which are regulated under 30 V.S.A. Section 248 by the Vermont Public Service Board. Such facilities, however, shall conform to the policies and objectives specified for such development in the Town Plan and Section 6.3 (Commercial Wireless Communication Facilities) of these bylaws.
- j) Fences, berms, manmade earthen structures, stone or retaining walls, any of which are five (5) feet high or less (such structures can preclude traffic visibility and may need authorization from the Selectboard within any town road right-of-way;
- k) Satellite receiving dishes and other antennae located on existing structures that are not more than 15 square feet in surface and no more than 12 feet in height.
- l) Work incidental to the development of non-commercial trails;
- m) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), operation of a cemetery, clearing for lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include sitework incidental to construction, or extraction and quarrying activities Regulated under Section 6.2.;
- n) Hunting, fishing, and trapping (as specified under 24 V.S.A. Section 2295) on private or public land. This permit exemption does not include the development of hunting, fishing, and trapping facilities such as firing ranges or rod and gun clubs.
- o) Septic installation, modification, or removal if a State Wastewater Permit has been issued and is in effect, or maintenance exempt from state permitting;
- p) Accepted agricultural and forestry practices, including the construction of farm structures, operation of riding stables, and processing or sale of agricultural or forestry products primarily produced on the premises provided setback requirements are met and notice of construction is given to the AO;
- q) Telecommunications regulated under Title 30 section 248;
- r) Amateur radio towers less than 50 feet in height and set back at least 150% of their height from lot lines or rights-of-way;
- s) Solar collectors, clotheslines, or other energy devices based on renewable resources for on-site use;
- t) Wind turbines less than 100 feet in height, with a blade diameter no greater than 20 feet and set back at least 150% of their height from a lot line or rights-of-way;

- u) The recording of plats simply for the purpose of establishing clear property lines on existing lots where no subdivision is involved; for annexations that combine existing lots in their entirety; and minor adjustments between two adjacent residential parcels where no new lots are created and all resulting lots are and will be compliant with local regulations, have a state subdivision permit for the resulting lots, and no lot changes in size by more than one (1) acre.
- v) Leasing of parcels for agricultural or forestry purposes where no permanent roads or structures are established;
- w) The granting of utility rights-of-way or easements;
- x) Special temporary events lasting less than 4 consecutive days and that are not the principal use of land or structures such as weddings, church suppers, fairs, concerts, festivals, cultural events, trade and antique shows, etc. provided that adequate off-street parking and circulation, sanitary and trash collection facilities are provided (a public gathering permit from the town and/or state police may be required);
- y) Temporary structures used for office or storage space, construction, or for special events, provided that such structures shall not be used for dwelling purposes, are placed outside of setbacks and are on site for a period of time not to exceed one (1) year.
- z) De minimus structures or uses not specifically mentioned in this bylaw that are incidental and customary to the use on the lot, are consistent with policies of the Town Plan, and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. Such uses or structures include but are not limited to play equipment, parks, unpaved trails and paths and seasonal decorations. The AO is empowered to make such determinations when needed, and appeals of these decisions shall be made to the DRB.

1.10 USES PROHIBITED IN ALL DISTRICTS

The following uses are prohibited in all Zoning Districts:

- a) Dumping, disposing, storing and/or burning of trash, garbage, or solid waste as defined in 10 V.S.A. Section 6602 unless such a facility is certified by the State of Vermont or in accordance with local or State regulations;
- b) Car Lots;
- c) Junkyards or Scrap Metal Yards;
- d) Commercial Slaughter Houses;
- e) Drive-In Eating Places or Drive-In Businesses or Services;
- f) Wholesale Bulk Petroleum or Bulk Chemical Storage Facilities;

Under the Vermont Municipal and Regional Planning and Development Act (Title 24 V.S.A. Chapter 117), any use not specifically authorized or exempted under this Zoning Regulation is prohibited.

1.11 INTERPRETATION OF ZONING REGULATIONS

The Administrative Officer shall administer these regulations literally and make determinations when needed on matters of any uncertainty with respect to the interpretation of the terms or provisions of these Regulations. Such determinations may be referred to the DRB by the AO for affirmation, or may be appealed to the DRB in accordance with 24 V.S.A. Section 4465, who shall interpret such terms or provisions. Such interpretations shall be kept on file for use in subsequent proceedings.

1.12 PRIOR DEVELOPMENT

A permit or approval shall not be required for any development which has lawfully begun, received a permit, or within which a use has been lawfully established, prior to the adoption of this Regulation provided that the construction is substantially completed for its intended use within the expiration date of any permit, or if none, one year from the date of adoption of this Regulation. In the case of subdivision, a subdivision which is lawfully in existence, has lawfully filed a plat prior to adoption of this Regulation, or which has received a permit or approval from the Town or a state subdivision permit shall be considered as prior development and shall not require a new permit unless such previous approvals expire.

1.13 PRECEDENCE

The provisions of this bylaw shall not in any way impair or remove the necessity of compliance with any other applicable local, state or federal laws or regulations. Where this regulation imposes a greater restriction, however, the provisions of this regulation shall take precedence.

1.14 WARNING OF DISCLAIMER OF LIABILITY

These Regulations do not imply that land outside the areas of special flood hazard or land uses permitted within other districts will be free from flooding or flood damage. These Regulations shall not create liability on the part of the Town of Barnard or any town official or employee thereof for any flood damages that result from reliance on this Regulation or any administrative decision lawfully made hereunder.

1.15 MORE THAN ONE PRINCIPAL BUILDING PER LOT

No more than two principal buildings may be placed on a lot unless such buildings and any buildings accessory to such principal buildings are positioned such that the lot is able to be subdivided into separate and individual lots, both lots and their respective uses conforming to all applicable provisions of this bylaw.

ARTICLE 2: ZONING DISTRICTS

2.1 ESTABLISHMENT OF ZONING DISTRICTS AND MAP

For the purposes stated in the Barnard Town Plan and Section 2.2 of these Regulations, the following land use districts are established within the Town of Barnard:

- Barnard Chateauguay Conservation (BCC)
- East Barnard Conservation (EBC)
- Rural, Forest, and Farmlands (RFF)
- Barnard Village (BV)
- East Barnard Village (EBV)
- Hamlet (HAM)
- Commercial (COM)
- Lakeshore (LAK)
- Prosper Valley Overlay (PVO)
- Silver Lake Watershed Overlay (SLO)
- Flood Hazard Overlay (FHO)

The areas and boundaries of the Zoning and Overlay Districts, except the Flood Hazard Overlay District are established as shown on the Official Barnard Zoning Map for the Town of Barnard and made a part of these Regulations, together with all future amendments. The area covered by the Flood Hazard Overlay District are all lands identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations. The map entitled Flood Insurance Rate Map (FIRM), Town of Barnard, Vermont and any revisions thereto, shall be considered the official Flood Hazard Overlay map, together with all explanatory matter thereon and attached thereto, and is hereby adopted by reference and declared to be part of these regulations.

The official Zoning Map shall remain on file with the Town Clerk.

2.2 PURPOSES OF ZONING DISTRICTS

2.2.1 BARNARD CHATEAUGUAY CONSERVATION DISTRICT (BCC) DISTRICT

The purpose of this district is to protect water quality and wetlands, maintain appropriate recreational opportunities, conserve contiguous forestland and wildlife habitat and encourage sound silviculture. New development shall be limited to very low density, non-commercial development. In the BCC, the use of small scale non-commercial renewable energy options to power the scarce residences within this area is encouraged in order to avoid the impacts of power lines.

2.2.2 EAST BARNARD CONSERVATION DISTRICT (EBC) DISTRICT

The purpose of this district is similar to the BCC, except in keeping with the less remote and more settled nature of the East Barnard Conservation Area, greater density and home business uses would be allowed in the East Barnard Conservation Area than in the Barnard Chateaugay Conservation Area.

2.2.3 RURAL, FOREST AND FARMLANDS (RFF) DISTRICT

The purpose of this district is to allow development at a moderate density manner consistent with a working rural landscape that also provides opportunities for residences, as well as businesses that are compatible with this type of area and not best situated in a village setting.

2.2.4 BARNARD VILLAGE (BV) DISTRICT

The purpose of this district is to allow mixed uses, home occupations, home businesses, limited commercial uses and residential uses in a higher density than the surrounding rural areas, as well as institutional and civic land uses, such as post offices, public schools, banks, civic buildings, the Town Hall, town offices and senior centers.

2.2.5 EAST BARNARD VILLAGE (EBV) DISTRICT

The purpose of this district is to allow mixed uses, home occupations, home businesses, limited commercial uses and residential uses at a higher density than the surrounding rural areas.

2.2.6 HAMLET (HAM) DISTRICT

The purpose of this district is to allow moderate density and mixed development at a scale between that of the village districts and the Rural Forest and Farmlands district in historic hamlets.

2.2.7 COMMERCIAL (COM) DISTRICT

The purpose of this district is to preserve commercial opportunities, while also limiting their impacts of development through the use of conditional use review. Uses in the RFF are also compatible here.

2.2.8 LAKESHORE (LAK) DISTRICT

The purpose of this district is to protect the water quality and scenic beauty of Silver Lake, while allowing limited non-commercial development.

2.2.9 PROSPER VALLEY OVERLAY (PVO)

The purpose of this overlay is to protect the scenic landscape, agriculture and water quality in this part of town while still allowing types of development as permitted in the underlying districts setting.

2.2.10 SILVER LAKE WATERSHED OVERLAY (SLO)

The purpose of this overlay is to provide extra water quality protection to the underlying area which drains into Silver Lake, so that the water of the lake retains its high quality and the area remains beautiful.

2.2.11 FLOOD HAZARD OVERLAY (FHO)

The purpose of this overlay is to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:

- a) Restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increase in flood heights or velocities;
- b) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
- c) Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair floodplain services or the stream corridor,
- d) Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Barnard, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

2.3 DETERMINATION OF DISTRICT BOUNDARIES

If uncertainty exists with respect to the boundaries of any District on the Official Zoning Map or the descriptions noted in Section 2.2 above, the location of such boundary shall be determined by the Administrative Officer. Where uncertainty exists as to the location of district boundaries shown on the official zoning map the following rules shall apply:

- a) boundaries indicated as following roads, railroad or utility rights-of-way shall be interpreted to follow the centerlines of such features;
- b) boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features;
- c) boundaries indicated as following shorelines shall be interpreted as the normal mean water level. In the event of change in the shoreline the boundary shall move with the shoreline;
- d) boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary as it existed as of the effective date of the zoning map as adopted;
- e) boundaries indicated as following contour lines shall be interpreted to follow a constant, specified elevation as measured from mean sea level or other accepted reference datum;
- f) boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.

The Administrative Officer shall determine the boundaries of any designated area of special flood hazard by scaling distances off of the Digital Flood Insurance Rate Map (DFIRM). Any decision of the Administrative Officer may be appealed to the DRB. Prior to making a determination on such an appeal the Board shall consult with the Barnard Planning Commission.

For areas in doubt in the Flood Hazard Overlay where such determination could place the structure outside the special flood hazard area, the burden of proof shall be on the applicant, who shall provide survey or other data sufficient for the AO to determine that the property in question is safe from

flooding, or a Letter of Map Amendment (LOMA)/Letter of Map Revision (LOMR) from FEMA, which shall constitute proof. The process may involve the applicant retaining an engineer and/or surveyor to provide the necessary data. Forms to apply to FEMA are available on http://www.fema.gov/plan/prevent/fhm/frm_form.shtm or by calling (617) 832-4761.

While the Administrative Officer/DRB is hereby empowered to determine that an area shown on the map as being in a floodway or area of special flood hazard is incorrect and therefore not subject to this bylaw, this will likely have no effect on any requirements by lenders to purchase flood insurance, nor will it result in any official change to the DFIRM (only FEMA can change the map).

ARTICLE 3: ZONING DISTRICTS - REQUIREMENTS AND USES

The following lays out the permitted and conditional uses for each district, as well as general dimensional requirements that apply in each district. Permitted uses require only the payment of a filing fee set by the Selectboard and issuance of a zoning permit by the Administrative Officer. Conditional uses require conditional use approval by the DRB prior to the issuance of a zoning permit. Specific requirements of overlays and waivers are then listed. General standards for all uses and specific standards that relate to particular uses can be found in Article 4.

3.1 USES BY DISTRICT

P=Permit Required, S=Subdivision Approval, C= Conditional Use Approval, X=not allowed, E=Exempt

Use	District							
	BCC	EBC	RFF	BV	EBV	HAM	COM	LAK
One and Two Unit Dwelling	P	P	P	P	P	P	P	C
Accessory Dwelling	P	P	P	P	P	P	P	C
Primitive Camp	P	P	P	X	X	X	P	C
Subdivision	S	S	S	S	S	S	S	S
Home Business 1	P	P	P	P	P	P	P	C
Home Business 2	X	C	C	C	C	C	C	X
Clearing Live Woody Vegetation	E	E	E	E	E	E	E	P
Fences and Walls over 5 feet in height	C	C	C	C	C	C	C	C
Assisted living	X	X	X	C	C	C	C	X
Community Association or Club facility	C	C	X	C	C	C	C	X
Non-formula Restaurant	X	X	X	C	C	X	C	X
Non-formula Retail	X	X	X	C	C	C	C	X
Professional Office	X	X	X	C	C	C	C	X
Public/Quasi Public Building or Use	X	X	X	C	C	C	C	C
Inn/Multi Unit Dwelling	X	X	X	C	C	C	C	X
Large Group Home	X	X	X	C	C	C	C	X
MU Dwelling in an Existing Structure	X	X	C	C	C	C	C	X
Lodging	X	X	X	X	X	X	C	X
Recreational Use or Structure	P	P	P	C	C	C	C	X
Light Manufacturing	X	X	X	X	X	X	C	X
Fueling/Gas Station	X	X	X	C	C	X	C	X
Repair or Service Facility	X	X	X	C	C	C	C	X
Wireless Telecommunications	C	C	C	C	C	C	C	X
Mobile Home Park	X	X	X	C	C	C	X	X

3.2 DIMENSIONAL REQUIREMENTS BY DISTRICT

	<u>BCC</u>	<u>EBC</u>	<u>RFF</u>	<u>BV</u>	<u>EBV</u>	<u>HAM</u>	<u>COM</u>	<u>LAK</u>
Minimum Lot Area (ac)	27	10	2	1	1	1	2	2
Minimum Lot Frontage (ft)	50	50	50	20	20	50	50	50
Minimum Width/Depth	300	300	150	100	100	100	150	150
Minimum Front Setback (ft)	50	50	50	50	50	50	50	50
Minimum Side/Rear Setback (ft)	30	30	30	15	15	30	30	30
Maximum Building Height (ft)	40	40	40	40	40	40	40	30

3.3 SETBACK, BUFFER AND LOT SIZE WAIVERS

3.3.1 WAIVERS BY AO

In all districts, waivers for setbacks may be granted by the Administrative Officer, without a hearing by the DRB, for:

- a) Reductions in front or side setbacks as necessary to allow for disability access;
- b) Reductions in side setbacks to allow for necessary life safety improvements;

3.3.2 WAIVERS BY DRB

In all districts, waivers for setbacks, buffers and lot sizes may be granted or denied, in whole or in part, by the Development Review Board using the conditional use approval process. Before granting a waiver to the setback requirements the Development Review Board shall make the following written findings including the rationale for each finding:

- a) Granting the waiver will be consistent with the purposes of this Bylaw; and
- b) That granting the waiver will not create an undue adverse affect on:
 1. natural resources, rural character or aesthetics;
 2. public safety; and
 3. the ability of an abutter to use their property.

3.4 LAKESHORE DISTRICT PROVISIONS

Clearing of live woody vegetation on lands extending 50 feet inland from the shoreline is prohibited without a permit. Such permit shall limit clearing to establishing an access to the lake, trimming of branches or removal of trees, provided canopy closure is maintained and parking and structures (excepting boathouses and piers) are screened as viewed from the lake.

Structures, except boat storage structures, docks and piers, shall be set back at least 100 feet from the lakeshore.

3.5 SILVER LAKE WATERSHED OVERLAY REQUIREMENTS

Within the overlay outside of the village district, no land disturbance is allowed within a stream buffer extending 35 horizontal feet from a river or perennial stream except for accepted agricultural and forestry practices, road and driveway crossings, crossings to access fields, permitted septic repairs, utility crossings, crossings by recreational trails, removal of debris necessary to rectify a natural

catastrophe, stream restoration projects in accordance with a plan approved by the Vermont Agency of Natural Resources, and maintenance of existing structures. The creation of new lawn areas is not permitted within a stream buffer, but vegetation may be pruned and dead or hazard trees removed as long as the overall forest canopy is maintained, and openings of the forest canopy may be created by removal of vegetation not to exceed 5% of the stream buffer area.

3.6 PROSPER VALLEY OVERLAY REQUIREMENTS

Except agricultural structures, no buildings or roads are allowed to intrude more than 100 feet into open fields.

Notwithstanding any other provision of this regulation, no structure may break the silhouette of a ridgeline as seen from a public highway in leaf-off conditions.

3.7 FLOOD HAZARD OVERLAY REQUIREMENTS

3.7.1 PROHIBITED DEVELOPMENT

The following are prohibited:

- a) New residential or non-residential structures (including the placement of manufactured homes);
- b) Storage of materials or junk yards;
- c) New fill except as necessary to elevate existing structures above the base flood elevation;
- d) Accessory structures in the floodway;
- e) Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
- f) All development not exempted, permitted, or conditionally permitted.

3.7.2 PERMITTED DEVELOPMENT

For the purposes of review under these regulations, the following development activities in the special flood hazard area where outside of the floodway, and meeting the Development Standards in Section 4.1k and 5.1, require only a zoning permit from the AO:

- a) Non-substantial improvements (see definition) that do not increase the footprint;
- b) Development related to on-site septic or water supply systems;
- c) Building utilities;
- d) At-grade parking for existing buildings; and,
- e) Recreational vehicles that fully licensed and ready for highway use.

3.7.3 CONDITIONAL USES

All other uses are as allowed in the underlying district, except they are conditional in the overlay. In addition, the following are conditional uses in this overlay:

- a) Non-substantial improvements (see definition) that increase the footprint
- b) Fill to elevate existing structures
- c) Channel management activities
- d) Bridges and culverts
- e) At- grade parking in the floodway
- f) Grading
- g) On-site septic or water supply systems

h) Substantial improvement;

In addition to meeting the general standards in 4.1k, these uses must also meet the standards in section 5.1.

3.7.4 STATE REFERRAL

All applications for proposed development in the overlay district shall be sent by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section for comment in accordance with 24 V.S.A. § 4424. For any permit application involving the alteration or relocation of a watercourse, the Administrative Officer shall notify adjacent communities, the Administrator of the National Flood Insurance Program, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section. A permit application will only be considered ready for conditional use hearing following the receipt of comments or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

3.7.5 ADDITIONAL STANDARDS

Specific general and conditional use standards apply in the overlay and are found in sections 4.1.f and 5.1.

ARTICLE 4: GENERAL STANDARDS

4.1 GENERAL STANDARDS FOR ALL DEVELOPMENT

a) **Minimum Structure Setbacks**

1. Public or private roads or public right-of-ways: fifty (50) feet from the center of the traveled way, except as allowed by waiver.
2. Public waters: unless otherwise stated in the regulation, twenty five (25) feet horizontal from the shoreline of lakes and ponds and from the top of bank from streams inside of the village districts, and in all other districts (50) feet for dwellings and one hundred (100) feet for commercial uses outside of the village districts.
3. Property lines: Any freestanding or guyed structure other than a building (radio tower, windmill, etc) shall be no closer to property lines than 150% of its height. Except within the villages or hamlets, commercial development with no exterior storage or activities shall be at least 50 feet from lot lines, and one hundred (100) feet from lot lines for uses with exterior storage or activities.

b) **Maximum Height**

No structure or part thereof, except farm buildings, antennae, chimneys, cupolas, steeples or similar roof structures; windmills; or telecommunications towers shall exceed forty (40) feet above average adjacent finished grade, except within the Lakeshore District where the maximum shall be thirty (30) feet. No structure of any kind may exceed 100 feet above grade.

- c) All outdoor lighting shall be directed or shaded so that it does not directly illuminate beyond the site boundary lines.
- d) An applicant is required to provide the Town with copies of all State permits it obtains when they are obtained.
- e) No wetland and its buffer designated or regulated by the State of Vermont shall be filled, excavated, or altered without prior review and approval by the Agency of Natural Resources.
- f) Within the Flood Hazard Overlay, all development shall be:
 1. Reasonably safe from flooding;
 2. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 3. Constructed with materials resistant to flood damage;
 4. Constructed by methods and practices that minimize flood damage;
 5. 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;
 6. Adequately drained to reduce exposure to flood hazards;
 7. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and
 8. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be

securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

4.2 DISCONTINUANCE AND ABANDONMENT

4.2.1 ABANDONED STRUCTURES

Structures which are not substantially complete within two (2) years of the issuance of a zoning permit, deemed uninhabitable by the Health Officer, deemed a fire danger by the Fire Chief, or which, due to deterioration or disrepair (but not damage), lack any major structural element customary to that building type, such as a roof, windows, water supply, etc., shall be considered abandoned for the purposes of these regulations. For such structures, the owner shall be notified in writing by the AO that the structure in question has been deemed abandoned and that they either must:

- a) apply for a zoning permit in order to resume construction or repair, and thereby confirm the intent not to abandon the structure; or
- b) fence and sign the property to prevent access, and then as soon as practical remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.

4.2.2 DAMAGED STRUCTURES

No zoning permit shall be required for the stabilization of a damaged structure to prevent hazards to public health and safety, or to adjoining properties, structures or uses; nor for the timely repair or reconstruction of a damaged structure to the extent of its prior condition and use, provided that such structure is outside the Flood Hazard Overlay, the repair begins within one year of the damage, and there is no change in structural dimensions or a change of use.

In the Flood Hazard Overlay, a nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program.

4.2.3 DISCONTINUED USES

Any non-residential use that ceases operations entirely for more than two consecutive years shall be deemed discontinued by the AO under this regulation and the owner notified of this decision in writing. However, upon a request for deferral by the owner and a written finding by the ZA that the property has been maintained and the owner has been actively pursuing reestablishment of the use, use may cease for up to two additional consecutive years before the use is deemed discontinued.

A discontinued non-conforming use shall follow the procedure in Section 4.4.

4.3 LIMITATIONS AND EXEMPTIONS

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:

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

4.4 NON-CONFORMING USES AND NON-COMPLYING STRUCTURES

4.4.1 APPLICABILITY

The following provisions shall apply to all lawfully existing structures and uses which do not conform to the requirements set forth in these Regulations and to all buildings and uses that in the future do not conform by reason of any subsequent amendment to these Regulations.

4.4.2 STANDARDS FOR NON-CONFORMING USES

Any non-conforming use of structures or land (nonconformity) may be continued indefinitely except under the conditions specified below. A non-conforming use shall not be:

- a) Moved, enlarged, altered, or extended in such a way that it increases the degree of nonconformance nor shall any external evidence of such use be increased. Routine maintenance is permitted;
- b) Changed to another non-conforming use without first receiving conditional use approval from the DRB, and then only to a use which, in the opinion of the Board, is of the same or of a more restricted nature;
- c) Reestablished if such use has been discontinued for a period of one year 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; and
- d) Reconstructed or restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage; if the reconstruction of such building is not commenced within one year (except in the Flood Hazard Overlay, where any reconstruction will be in conformance with these regulations), the non-conforming use shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged part of the building or lot. The Zoning DRB may grant a one-year extension for situations beyond the applicant's control.

4.4.3 STANDARDS FOR NON-COMPLYING STRUCTURES

A non-conforming structure may be enlarged or extended if no part of the enlargement or extension violates any dimensional requirement of the zoning regulations.

4.5 EXISTING SMALL LOTS

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on or before October 19, 1971 may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. Notwithstanding provisions to the contrary, structures shall not be erected or extended less than forty (40) feet from the centerline of a public road, fifteen (15) feet from any property line or within a road right-of-way. A lot owner may seek a variance from these setbacks. Nothing in this section shall be construed so as to prevent the sale or transfer of such a lot.

If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for purposes of this section. However, such lot shall not be deemed merged and may be separately conveyed, if:

- a) The lots are conveyed in their preexisting, nonconforming configuration; and
- b) On October 19, 1971, each lot had been developed with a water supply and wastewater disposal system; and
- c) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
- d) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, which means the system functions in a manner (1) that allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design of the system specifically requires the system to function in such a manner; (2) so that a potable water supply is contaminated or rendered not potable; (3) that presents a threat to human health; or (4) that presents a serious threat to the environment.

If, subsequent to separate conveyance, as authorized in the paragraph above, a wastewater system fails, the owner shall be required to obtain from the Secretary of the Vermont Department of Natural Resources a wastewater permit as required under the subdivision regulations or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

4.6 REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR WATERS

No land development may be permitted on lots which do not have either frontage on a public road, public waters, or access to such a road or waters by means of a permanent easement or right-of-way at least twenty feet in width. In the event that a lot does not have frontage on a public road or public waters, a Right-of-Way Approval form shall be submitted to the DRB. If evidence leads the DRB to find that a suitable permanent access to a public road or water exists, it shall grant approval.

4.7 GENERAL RESTRICTIONS ON ALL PERMITTED SIGNS

All signs other than those specified as exempt under Section 1.9h shall require a Zoning Permit from the Administrative Officer. Permitted signs shall conform to the requirements listed below:

- a) No sign shall prevent a clear and unobstructed view of official signs or vehicular traffic.
- b) Indirectly illuminated signs may be lighted with constant lighting provided the lighting shall not be directed at neighboring properties or public ways. The intensity of sign lighting shall not adversely affect the neighborhood or streets and highways, especially the drivers of vehicles.
- c) No sign shall contain string lighting, pennants, moving parts or similar attention gathering devices nor shall they contain or support any device capable of emitting noise. No sign shall be illuminated by neon, flashing, moving, intermittent or any other internally generated light.
- d) No sign shall be erected, attached, or maintained upon any tree or drawn or painted on any rock or other natural feature or upon any utility pole or town sign post.
- e) No sign shall be erected which is not on the lot where the activity served by the sign is located.
- f) The height of a free-standing sign shall not be more than ten (10) feet above grade level.
- g) No sign that is attached to a building shall extend above its roof line.
- h) No sign may be so designed, erected, illuminated, operated or maintained and be in such a location that it conflicts with or detracts from the effectiveness of an official traffic signal or sign, or constitutes a menace to traffic safety.

4.8 HOME OCCUPATIONS

These Regulations provide the right of any resident to use an area less than 50% of the finished floor area of a the principal dwelling for a home occupation without the issuance of a permit where:

- a) The use is entirely within the dwelling and/or accessory structure;
- b) The occupation is conducted solely by the occupants of the dwelling and any other off-site employees;
- c) There is no outside display of stock or merchandise;
- d) There is no stock in trade unless such is assembled or produced on the premises, except for incidental items commonly associated with a home occupation that is a service use, such as plumbing supplies for a plumber, hair care products for a hairdresser, etc;
- e) There is no outdoor storage of equipment or supplies.

4.9 GENERAL HOME BUSINESS 1 STANDARDS - PERMITTED USES

A Home Business 1 must be owned and operated by the resident(s) of the property on which the business operates, and must comply with the following, which shall be permit conditions:

- a) The business use on site is conducted entirely within the dwelling or accessory building;
- b) There are no more than two (2) non-resident employees of the business whose work is primarily on site;
- c) All on-premise signs or advertising complies with these Regulations;
- d) There is no stock in trade unless assembled or produced on the premises, except for incidental items commonly associated with the home business, such as plumbing supplies for a plumber, hair care products for a hairdresser, etc;
- e) There is no outside display of merchandise;

- f) There is sufficient off-road parking;
- g) The total floor area for all home businesses on the lot does not exceed 1,500 square feet;
- h) Exterior lighting associated with the use is shielded or shaded so as not to create a glare on a public road or beyond the property line; and
- i) Average weekday traffic volumes are limited by location as follows:
 1. Vermont Route 12 – unrestricted;
 2. Class 2 Town Roads - twenty (20) business trip ends per day to include customers, employees, or deliveries;
 3. Class 3 Town Roads - twenty (20) business trip ends per day to include customers, employees, or deliveries;
 4. Class 4 roads – ten (10) business trip ends per day to include customers, employees, or deliveries;
 5. Trails – zero (0).
- j. One parking space per employee and one parking space per 1,000 square foot of business floor space is provided. If delivery vehicles are used in the business then a loading area not less than thirty (30) feet from the property line or fifty (50) feet from the centerline of a public road shall also be provided.

4.10 HOME BUSINESS 2 CONDITIONAL USE STANDARDS

In addition to general conditional use standards below, a Home Business 2 shall be conditioned to meet all applicable standards noted for Home Business 1 uses per Section 4.9 above, except:

- a) Outdoor work, display and storage is allowed outside of setback areas
- b) The total floor area or outdoor display area can be up to 5,000 square feet;
- c) Any off-road parking area, outdoor work or storage areas may not exceed three acres in area, are to be adequately screened from adjacent properties and public roads; and
- d) No more than five (5) non-resident employees of the business may work on site.

4.11 GENERAL CONDITIONAL USE APPROVAL STANDARDS

The proposed development will not create an undue adverse affect on the following:

- a) The capacity of existing or planned community services or facilities. The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of such services and facilities including, but not limited to, schools, emergency services, transit services and road maintenance. Conditions may be imposed to ensure that demand does not exceed available capacity.
- b) The character of the area as defined by the purposes in this regulation and specific policies and standards in the Barnard Town Plan as well as applicable zoning district purposes and standards. Conditions may be imposed to ensure project compatibility with these purposes and policies.
- c) Traffic on roads and highways in the vicinity. The Board shall consider the potential impact of traffic projected to result from the proposed development in relation to the condition, capacity, safety, and function of affected roads and associated infrastructure (e.g., bridges, culverts). Conditions may be imposed to ensure that the condition, capacity, safety, and function of roads and associated infrastructure are maintained over the long-term.

- d) Bylaws and ordinances in effect. The Board shall consider whether the proposed development complies with all bylaws and ordinances in effect at the time of application. Conditions may be imposed or incorporated to ensure compliance with municipal bylaws and ordinances.
- e) The utilization of renewable resources. The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Development may not adversely affect the use of renewable energy, principally by blocking solar access to adjacent properties. Conditions may be imposed to ensure long-term access, use and availability of such resources.
- j) Parking must be provided outside of the traveled portion of the public road for all residents, customers, delivery/service vehicles and all vehicles used in the business; and the parked vehicles must not create traffic safety or visibility concerns. For any public or commercial uses that cater to the public, reasonable parking will be required so that full occupancy or maximum expected use will not create an unsafe condition. All drives and parking areas shall be surfaced with hard, durable material and be properly drained.
- k) Mass and Scale. Non-residential primary or accessory structures will be evaluated as to their mass and scale to ensure that they resemble the general size, style and shape of other similar structures in town.
- l) Landscaping, screening or the retention of vegetation will be used to minimize development's visual effect from public roads or adjoining properties.
- m) Storm Water and Erosion Control. Drainage must control storm water run-off, prevent erosion and protect neighboring land and roads from undue impacts. No increase is allowed in off-site storm water run-off in terms of volume or peak discharge, nor any discharge of any hazardous substances. Sites disturbing more than an acre require a state permit.
- n) The DRB may also require specialized studies, if needed to adequately review technical issues, at a reasonable cost payable by the applicant.
- o) Pedestrian or bicycle circulation between the site, adjacent compatible sites and the street network shall be viable and safe.
- p) Emergency vehicle access shall be satisfactory to town emergency services.
- q) Refuse collection areas and provisions for snow removal shall be sufficient for the use.
- r) Exterior Noise Level
 1. Except as is incidental and customary to residential uses, noise levels generated will be within the following limits:
 - i. Ambient Sound Level as measured at the property line or far road right-of-way edge.
 - ii. Ambient Sound Levels - see definition of "L".
 - iii. Quiet hours: L = 40 from 9:30 PM to 6:30 AM
 - iv. Reduced noise hours: L = 50 from 6:00 PM to 9:30 PM
 - v. Full operation hours: L = 72 from 6:30 AM to 6:00 PM.
 2. Relative Noise Limit Method - where ambient sound levels (as measured in Section 1 above) are above specific limits and, other sound sources may be present (other than the sound source(s) in question), a relative sound measurement criteria may be used. Relative Sound Level measurement is the Ambient Sound Level (as measured in section 1 above) minus the

Background Sound Level. The Relative Sound Level shall not be greater than 5 dB (A) above the Background Sound Level.

3. No exterior noise source shall produce a sound dB (A) level greater than 72 dB (A) when measured at a distance of 15.2 meters (50 feet). The measurement shall be taken at the loudest point. The exterior of buildings may be measured if they contain a noise-generating source. If doors or windows are to be opened during operating hours, the noise measurement shall be taken with doors or windows in the open position. No noise source shall be operated so as to produce a noise level greater than 72 dB (A) when measured at the property line or at the far road right-of-way edge.
4. It is the responsibility of the owner or applicant to take or have taken the sound level measurements specified in this performance standard.
 - s) Dust/Smoke and Odor. No visible dust/smoke or discernible objectionable odor beyond the property line is permitted, excepting as is incidental and customary to residences, farms or permitted occasional burning.
 - t) Vibration. Continuing vibration which is readily discernible without instruments on adjacent property is prohibited

4.12 ACCESSORY STRUCTURES

Except as exempted, accessory structures customary and incidental to the principal use are allowed and will follow the permitting process of the principal use, so a garage for a house where the house only requires a zoning permit also only requires a zoning permit, but a storage building for a Home Business 2, which is a conditional use, requires a conditional use approval.

ARTICLE 5: SPECIAL STANDARDS

5.1 SPECIAL REQUIREMENTS IN THE FLOOD HAZARD OVERLAY

Unlike other areas in town, there are very few exemptions in the overlay. Permits are required for all development, including new construction, replacement of damaged structures, improvements to existing buildings and structures, filling, grading, excavation, and similar developments.

5.1.1 RECORDS

The Administrative Officer shall maintain a record of:

- a) All permits issued and denied for development in areas of special flood hazard;
- b) The as-built elevation certificate (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings;
- c) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been floodproofed;
- d) All floodproofing certifications required under this regulation; and
- e) All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

5.1.2 DRB

Upon receiving an application, the DRB shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant:

- a) Base flood elevation data for all subdivisions and other proposed new developments;
- b) The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
- c) Where flood proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed;
- d) Certification from a registered professional engineer or architect that the flood proofed structure meets the flood proofing criteria in Section 3.6.6 of these Regulations; and
- e) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- f) Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- g) In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, or developed by the applicant, shall be obtained by the applicant and utilized to administer and enforce these regulations.
- h) In areas of special flood hazard where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing

development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.1.3 OTHER PERMITS

As a condition to its approval, the DRB shall specifically require that all permits for development in the Flood Hazard Overlay District shall be conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal law prior to the beginning of work on the site.

5.1.4 FLOODWAY STANDARDS

Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:

- a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
- b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

5.1.5 SPECIAL FLOOD HAZARD AREAS STANDARDS

- a) In Zones A, AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- b) Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate.
- c) Non-residential structures to be substantially improved shall meet the standards for residential structures or have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood proofing 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.
- d) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

- e) Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and, they shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- f) A small accessory structure of 150 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the general standards. (Such structures may not be able to get insurance or may have higher rates.)
- g) Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- h) Sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- i) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- j) The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
- k) Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
- l) Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
- m) Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

5.1.6 CERTIFICATES OF OCCUPANCY

In accordance with Chapter 117 §4449, 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 within a Special Flood Hazard Area until a certificate of occupancy is issued by the Administrative Officer stating that the proposed use of the structure or land conforms to the requirements of these regulations. A certificate of occupancy is not required for structures that were built in compliance with the regulations in effect at the time of construction and have not been improved since the adoption of these regulations. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in

conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

5.1.7 ANNUAL REPORT

The Administrative Officer shall submit to the Flood Insurance Administrator an Annual Report with respect to the administration and enforcement of these Regulations. A copy of the Annual Report shall be submitted to the Vermont Department of Environmental Conservation.

5.2 COMMERCIAL WIRELESS COMMUNICATION FACILITIES

Wireless telecommunication facilities shall include all wireless telecommunication providers, licensed and/or regulated by the Federal Communications Commission, and associated equipment and buildings.

5.2.1 PURPOSES

- a) Preserve the character and appearance of the Town of Barnard while allowing adequate wireless telecommunications services to be developed to accommodate the communication needs of Barnard residents and businesses;
- b) Protect the scenic, historic, environmental, and natural resources of the Town;
- c) Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of wireless 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) Minimize the adverse visual effects of towers and other facilities through careful design and siting standards;
- f) 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.

5.2.2 SMALL SCALE FACILITIES

The placement of commercial wireless telecommunications antennas, repeaters, or microcells on existing buildings, structures, roofs, or walls, and not extending more than ten (10) feet from the same, or the installation of ground facilities less than twenty (20) feet in height, may be approved by the Administrative Officer, provided the antennas meet the applicable requirements of this regulation, upon submission of:

- a) A final site and building plan.
- b) A report prepared by a mechanical or structural engineer, licensed by the State of Vermont, indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device 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.

- c) 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.

However, no such device may be located closer than fifty (50) feet to an existing residence.

5.2.3 AUTHORITY

Pursuant to 24 V.S.A. 4460 et. Seq., the DRB is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary, and final plans, and installation. Pursuant to 24 V.S.A. 4440 (d), the Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

5.2.4 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.

5.2.5 DEFINITIONS

See "Commercial Wireless Communications Facilities" in Article 8.

5.2.6 Permitted and Prohibited LOCATIONS

Freestanding telecommunications towers or antennas over twenty (20) feet in elevation may not be located in any of the following locations:

- a) Within one hundred (100) feet of a State or Federally designated wetland;
- b) The habitat of any State-listed Rare or Endangered Species;
- c) To any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building, a distance measured horizontally from the boundary of the property or the edge of the building to the nearest part of the base of the tower that is the greater of (a) thirty (30) feet or (b) the height of the tower;
- d) Within one hundred (100) feet horizontally of any river or perennial stream;
- e) Within one hundred (100) feet horizontally of any known archeological site.

5.2.7 CONDITIONAL USE APPROVAL REQUIREMENTS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, 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 wireless telecommunications tower or facility shall commence without conditional use approval first being obtained from the Zoning Board of Adjustment.

In addition to information otherwise required in the Town's Zoning Regulations, applicants for wireless 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 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 the indicated qualified engineer(s) that:
 1. Describes the facility height, design and elevation (structural engineer licensed by the State of Vermont);
 2. Documents the height above grade for all proposed mounting positions for antennas to be co-located on a telecommunications tower or facility and the minimum separation distances between antennas (radio frequency engineer);
 3. Describes the tower's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects the tower to accommodate (structural engineer licensed by the State of Vermont);
 4. In the case of new tower proposals, demonstrates that the existing telecommunications sites and other existing structures, or other structures proposed by the applicant within five (5) miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the Town. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable;
 5. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites listed to provide coverage to the intended service area;
 6. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage;
 7. Describes the output frequency, number of channels, section orientation, and power output per channel, as appropriate for each proposed antenna;

8. Includes a written explanation for use of the proposed 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;
 9. Demonstrates the tower's compliance with the Town's setbacks for towers and support structures;
 10. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The DRB may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times;
 11. Includes other information required by the Board that is necessary to evaluate the request;
 12. Includes an engineer's stamp and registration number, where appropriate. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- e) 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).
 - f) To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - g) 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.
 - h) 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 facility site.
 - i) Vicinity Map showing the entire vicinity with a 2,500-foot radius of the facility site, including the 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 facility site parcel and all easements or rights of way needed for access from a public way to the facility.
 - j) Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads. Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.
 - k) Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
 - l) Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

- m) In the case of a proposed site that is forested, the approximate average height of the existing vegetation within two hundred (200) feet of the tower base.
- n) Construction sequence and time schedule for completion of each phase of the entire project.

5.2.8 CO-LOCATION REQUIREMENTS

An application for a new wireless telecommunications facility shall not be approved unless the DRB finds that the facilities planned for the proposed structure 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 mitigated at a reasonable cost.
- c) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
- d) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonable or are too far from the area of needed coverage to function reasonable as documented by a qualified engineer.
- e) Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- f) There is no existing or approved tower in the area in which coverage is sought.
- g) 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 placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

5.2.9 ACCESS ROADS AND ABOVE-GROUND FACILITIES

Where the construction of new wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Town may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot.

5.2.10 TOWER AND ANTENNA 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 the 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. Use of stealth design, including those which imitate natural features, may be required in visually sensitive locations.
- 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 twenty (20) feet above the average height of the tree line measured within one hundred (100) feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the DRB that the additional height is necessary in order to provide adequate coverage in the Town of Barnard or to accomplish co-location of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
- c) Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Board will consider:
 1. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
 2. the frequency of the view experienced by the traveling public;
 3. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
 4. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 5. the distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
 6. the sensitivity or unique value of a particular view affected by the proposed tower; and
 7. significant disruption of a viewshed that provides context to a historic or scenic resource.

The Board shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the Board may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonable technically feasible to meet the applicant's communication objectives.

- d) 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 requirement 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.

- e) 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 (10) feet in depth with a minimum height of six (6) feet and shall have the potential to grow to a height of at least fifteen (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.

5.2.11 AMENDMENTS TO EXISTING WIRELESS TELECOMMUNICATIONS FACILITY PERMIT

An alteration or addition to a previously approved wireless 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) 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.

5.2.12 TOWER LIGHTING AND SIGNAGE; NOISE GENERATED BY FACILITY

Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. 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 or facility. Signage shall be limited to that required by federal or State regulation. The Board may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties.

5.2.13 TEMPORARY WIRELESS COMMUNICATION FACILITIES

Any wireless telecommunication 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 Town of Barnard.
- b) Temporary facilities are permitted for no longer than five (5) days use during a special event.
- c) The maximum height of a temporary facility is fifty (50) feet from grade.
- d) Temporary facilities must comply with all applicable portions of these regulations.

5.2.14 CONTINUING OBLIGATIONS

Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for his or her representations.

5.2.15 FACILITY REMOVAL

Abandoned, unused, obsolete, or noncompliant towers or facilities governed under this bylaw shall be removed as follows:

- a) The owner of a facility/tower shall annually, or July 15, file a declaration with the Town's Administrative Officer 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 or facilities shall be removed within one hundred eighty (180) days of cessation of operations at the site unless a time extension is approved by the Planning Commission. In the event the tower or facilities not removed within one hundred eighty (180) days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
- c) Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed within one hundred eighty (180) days of cessation of operations at the site unless a time extension or negotiated solution is approved by the Zoning Board of Adjustment. In the event the tower or facility is not removed within one hundred eighty (180) days of notification of such a violation, the municipality may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
- d) An owner who has failed to file an annual declaration with the Administrative Officer by July 15 may, by August 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
- e) The applicant shall, as a condition of the conditional use permit, provide a financial surety bond payable to the Town and acceptable to the DRB to cover the cost of removal of the facility and remediation of the landscape, should the above clauses be invoked.

5.2.16 MAINTENANCE REQUIREMENTS

The applicant shall maintain all facilities. Such maintenance shall include, but not be limited to, painting, structural integrity, and landscaping. In the event the applicant fails to maintain the facility, the Town may undertake such maintenance at the expense of the applicant or landowner.

5.2.17 INSURANCE REQUIREMENTS

The facility owner shall maintain adequate insurance on all facilities.

5.2.18 FEES

Fees for filing an application to build or alter a wireless telecommunications facility shall be determined by the Board of Selectmen. Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

5.3 EXTRACTION OF SOIL, SAND, ROCK AND GRAVEL

The commercial extraction of gravel, sand, soil, or rock, or a substantial change from an existing operation shall require Conditional Use Approval from the DRB. In the review of proposed projects, in addition to other standards set forth in these Regulations, due consideration shall be given to the following standards:

- a) The removal of all material shall be conducted so as to result in the improvement of the land, having 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 provisions are made to re-grade such pit.
- b) The excavation following the operation shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and re-seeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion.
- c) 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.
- d) No excavation, blasting or stock piling of materials may occur within two hundred feet of any public road or property line.
- e) No power-activated sorting machinery or equipment may be located within three hundred feet of any public road or property line, and all such machinery shall be equipped with satisfactory dust control devices.
- f) The DRB may require that all excavation slopes in excess of two to one be adequately fenced.
- g) The DRB may require from the owner, for the benefit of the Town, a performance bond issued by a bonding or surety company approved by the Board of Selectmen, or by the owner with security acceptable to Board of Selectmen, in an amount sufficient to cover the full cost of rehabilitation of the site as is estimated by the DRB. In determining such costs, the DRB reserves the right to engage the services of civil engineer or other qualified expert to evaluate the proposed plan. All costs incidental to these services shall be paid by the applicant to the Town, if required by the DRB. Such bond or other security shall provide for and secure the public interest, and ensure the completion of the site rehabilitation plans as approved by the DRB within a reasonable time following closure of the operation. This provision, however, does not apply to mining or quarrying.

5.4 KENNEL STANDARDS

As part of conditional use review, kennels may be required to install fencing, landscaping, have increased setbacks and other measures to minimize off site impacts to adjacent properties.

5.5 SIGNS - SPECIAL PROVISIONS

In the Commercial District one sign per lot shall be permitted upon issuance of a Zoning Permit by the Administrative Officer, provided such standards meet the general standards above and the following:

- a) No single face of a sign shall exceed twelve (12) square feet in area which advertises a service, product, or goods sold on the premises.
- b) The sign shall be located not less than 5 feet from the edge of the right-of-way, nor less than 50 (fifty) feet from the intersection of a public street or road, unless affixed to a building and not extending above the building by more than 3 feet.

5.6 SUBDIVISION STANDARDS

The following standards shall apply to all subdivisions. These Standards may only be waived by the DRB pursuant to the requirements of Section 6.6.3.

- a) All subdivided lots must have approved access, which may be shared, onto town or state highways or a legal right-of-way no less than 50 feet in width to a shared private road or drive that provides entry and egress from a town road or state highway. The creation of landlocked parcels is not allowed. Access permits must be obtained from the Selectboard for access onto a town road, or from the Vermont Agency of Transportation for access onto a state highway.
- b) Any subdivided lot created under these Regulations must contain the minimum lot size and dimensions unless waived.
- c) All land to be subdivided must be surveyed by a licensed land surveyor prior to final approval.
- d) All subdivisions shall be limited to such uses as are stated by the applicant in the subdivision application. A change to a use not specified in the application without a new or amended permit is a violation. Where no uses are stated, then no residential or non-residential uses shall be allowed without issuance of a new permit. This provision shall be in the permit for all lots.
- e) All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for the intended purposes without danger to public health or safety, or damage to the environment.
- f) Subdivisions shall be designed in reasonable conformity with existing topography to minimize grading, to reduce cuts and fills, and to retain, insofar as reasonable, natural contours, land cover, and soil. Projects involving blasting, retaining walls or major modification of existing topography must show that there are no feasible alternatives. The DRB may require a program of landscaping, soil stabilization and the establishment of appropriate, permanent vegetative cover following excavation or grading.
- g) No new slopes may be created with a grade greater than 1:3. Disturbance of steep slopes (over 25%) shall be minimized. Subdivisions on slopes greater than 25% may require a licensed professional engineer to certify that they do not pose a landslide or erosion risk.
- h) Land shall not be subdivided so that any lot consists of land designated as flood hazard areas or characterized by poor drainage, steep slopes, or subject to other hazardous conditions to the point where the lot is not buildable, unless building has been restricted on the lot by easement.
- i) Subdivisions shall avoid irregularly shaped lots (e.g., curves, jogs, dog-legs, etc.) and no lot may be more than five times longer than the narrowest dimension, unless warranted due to natural/topographic constraints, or to minimize the fragmentation of natural, scenic or cultural

features.

- j) The proposed development may not place an unreasonable burden on the ability of the Town to provide municipal or governmental services and facilities.
- k) The proposed development may not cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town.
- l) Adequate provision of water supply shall be made for fire protection satisfactory to the Fire Department, and if required, shall be designed in consultation with a licensed professional engineer, and may include a system of hydrants or ponds built to generally accepted standards.
- m) Drainage shall not adversely affect any abutting properties, roads, and drainage systems within or outside the subdivision site. The Commission may require the developer to submit a report from a licensed professional engineer assessing the impact of drainage created by the subdivision.
- n) For lots which will require on-site sewage systems or potable water, state permits will be required as a condition, prior to the filing, of any final plat approval. For lots without designed systems and intended to have no buildings, the required deed notice in the Vermont Environmental Protection Rules shall be a condition of final plat approval and the notice shall be legibly printed on the plat itself.
- o) Private road construction must satisfy the requirements of the Town Highway Policy and Road and Bridge Standards. Driveways may not exceed 18% grade. If the subdivision is on an existing private road, or will cause the creation of a private road, improvements to the existing road or right-of-way may be required for public safety and emergency access.
- p) Access permits, when applicable, must be obtained from the Selectboard and/or the Vermont Agency of Transportation prior to approval of a subdivision and/or construction of any roads or driveways.
- q) Access to any lots within a subdivision shall be limited to a single shared access point, unless public safety is better served by two accesses or topography precludes single access. Any additional subsequent subdivision shall be restricted by permit to the existing access point(s) as approved for the initial subdivision. Access points shall be on existing side roads when feasible.
- r) The subdivision shall minimize impacts to historic structures, stone walls, mature trees, and critical wildlife habitat or corridors whenever possible.
- s) When subdivisions contain prime or statewide agricultural land or large blocks of contiguous forest, adequate provision shall be made for their preservation for future use. Cutting plans may be required to retain mature trees or limit intrusion into forests.
- t) When site conditions allow, subdivisions shall be laid out to promote energy efficiency and conservation by affording buildings sufficient solar access and southern orientation.
- u) Stormwater shall be handled by an erosion control plan prepared by a licensed professional engineer for the subdivision for control of erosion, sediment and stormwater runoff during and following development. Subdivisions that will result in an acre of new impervious surface when fully built require a state operational stormwater permit.

- v) Electric, telephone and cable distribution systems shall be placed underground when crossing large open areas when reasonable. The developer shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for installation. All utilities shall follow the road right-of-way unless the DRB approves alternative plans based upon a review and demonstration of necessity.
- w) Adequate provision must be made for pedestrian traffic in terms of safety, convenience, and access to destination points. Sidewalks or paths, or rights of way for such may be required.
- x) Any proposed outdoor site lighting for pedestrian and vehicular safety shall keep lighting confined to the property, to avoid glare, skyglow, and visual disturbance.

ARTICLE 6: PERMITS and APPROVAL PROCESSES

6.1 APPLICATION

Potential applicants are encouraged to discuss their project with the Administrative Officer prior to application in order to fully understand the requirements of this regulation and the permit process.

No zoning permit shall be issued by the Town of Barnard, for a structure for human occupation/use that requires a water and wastewater permit, until a wastewater disposal permit has been received and approved by the State, unless there is a condition that no construction can begin until such state permit is received.

All applications requiring a zoning permit and any other prerequisite approval under this regulation shall be submitted to the Administrative Officer on forms approved by the DRB, and accompanied by the applicable fee as set by the Selectboard. Applications without appropriate fees will be denied. Fees are non-refundable and are for application and do not guarantee issuance of a permit.

6.2 PERMIT COORDINATION

The Administrative Officer shall inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the Vermont Agency of Natural Resources in order to assure timely action on any related State and/or federal permits. Note that this will not change the applicant's sole obligation to identify, apply for, and obtain relevant State/federal permits. The AO shall also coordinate any local permits/approvals that may be needed.

6.3 TIME FOR ACTION ON A PERMIT

The Administrator will take action on any application within 30 days of receipt, either by determination that the application is incomplete, denial, approval or referral to the DRB. Applications that cannot be approved in conformance with this regulation shall be denied.

If the Administrative Officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to DRB, a permit shall be deemed issued on the 31st day.

6.4 ZONING PERMITS

6.4.1 EFFECTIVE DATE

No Zoning Permit issued shall take effect until 15 days from the time of issuance and the time for appeal has passed, or in the event that a notice of appeal is properly filed, no such Zoning Permit shall take effect until final adjudication of that appeal.

6.4.2 NOTICE OF PERMIT

- a) Each Zoning Permit issued under this section shall contain a statement of the period of time within which an appeal may be taken and shall require prompt posting of a Notice of Permit poster provided by the Administrative Officer within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.

- b) Within three days following the issuance of a permit, the Administrative Officer shall:
 - 1. Deliver a copy of the permit to the listers of the Town; and
 - 2. Post a copy of the permit in at least one public place in the Town until the expiration of 15 days from the date of issuance of the permit.

6.4.3 RECORDING REQUIREMENTS

Within 30 days after a Zoning Permit has been issued or within 30 days of the issuance of any notice of violation, the Administrative Officer shall:

- a) Deliver the original or a legible copy of the Zoning Permit or notice of violation or a notice of a Zoning permit generally in the form set forth in subsection 1154 (c) of 24 V.S.A. to the Town Clerk for recording as provided in subsection 1154 (a); and
- b) File a copy of that Zoning Permit in the Town offices in a location where all Zoning Permits shall be kept.
- c) File any Zoning Permit, Notice of Decision for Conditional Use, Site Plan, or Variance, Notice of Violation, or notice of same with the Town Clerk as provided in 24 V.S.A. Section 1154(a). The Town Clerk may charge the applicant for the cost of the recording fees as required by law.

Such records shall be open to inspection. Within 30 days following the actions referenced above, the Administrative Officer or DRB shall deliver a copy of the respective decision, certificate, or action to the Town Clerk for recording.

6.4.4 PERMIT EXPIRATION DATES AND EXTENSIONS

A zoning permit is authorization to undertake certain actions, and shall expire two years from the date it is issued if such action is not begun. In addition, if the zoning permit authorizes only a change in the use of any building or other structure, or in the use of land, the change in use must occur prior to the two-year expiration date of the zoning permit, or it shall become null and void.

If the zoning permit authorizes construction (construction, reconstruction, conversion, relocation, alteration or enlargement of any building or structure), said construction activity must be begun within two years and substantially completed by the end of the third year or the zoning permit shall become null and void.

The expiration of a zoning permit under this subsection shall include the expiration of all associated zoning approvals, and at its expiration, any land development on the lot related to the permit must cease. If construction authorized by a permit is not substantially completed within the time authorized above, the permit shall expire and the landowner must reapply and comply with the Regulations then in effect.

Zoning permits that have been fully complied with shall not expire and shall run with the land.

6.5 CONDITIONAL USE APPROVALS

In any district certain uses are conditional and may receive a zoning permit following approval of the Development Review Board. General and specific standards to which each Conditional Use must

conform are prescribed in these Regulations. The DRB shall grant Conditional Use Approval if and only if, after public notice and public hearing, the Board determines that the proposed use will conform to such standards. In granting Conditional Use Approval, the Board may attach reasonable conditions and safeguards as are necessary to implement these Regulations.

For all relevant criteria applicable to the requested use, the applicant has the burden of proof. This means that the applicant must persuade the DRB that the use complies with these Regulations. This can be by written or oral testimony provided by the applicant at the hearing. The applicant shall provide sufficient evidence that all relevant criteria have been met even if no party actually opposes that project. Evidence must be credible and clear enough for the Board to be able make findings that ensure the public health, safety, and welfare.

6.5.1 APPLICABILITY

No Zoning Permit shall be approved by the Administrative Officer for any use or structure that requires Conditional Use Approval until the DRB grants such approval in accordance with these Regulations and the following standards and procedures.

6.5.2 APPLICATION REQUIREMENTS

An applicant for Conditional Use review shall submit one (1) original and one (1) complete copy of an application.

6.5.3 REVIEW PROCEDURES

The DRB shall take such testimony as will enable them to reach a decision supported by findings of fact, including continuing or closing the initial hearing pending the submittal of further information, and reconvening when such information is ready. When sufficient testimony has been taken for the Board to address each general and specific standard that applies to that use in that district, the DRB shall close the final hearing and deliberate. Deliberations may be done in private and will lead to a written decision to approve, approve with conditions, or disapprove an application for Conditional Use Approval within 45 days of the date of the final public hearing. The decision will include findings, any conditions, and provisions for appeal. Failure to act within the 45-day period shall be deemed approval. Action by the Board shall be taken by a concurrence of a majority of the members of the Board.

6.6 SUBDIVISION REVIEW

6.6.1 APPLICABILITY.

In accordance with the Act [§4418], whenever any subdivision of land as defined in this bylaw is proposed, subdivision approval by the Development Review Board is required prior to:

- a) the sale, transfer of ownership or lease of any portion of a parcel of land,
- b) the issuance of a zoning permit for the creation of a lot, or
- c) filing a subdivision plat in the land records of the town, except as exempted.

Such approval shall be granted by the Board only in accordance with the procedures and standards set forth below.

6.6.2 EXEMPTIONS

The following are each specifically exempted from subdivision review under this regulation:

- a) The lease of a portion of a parcel for agricultural or forestry purposes.
- b) The lease of a portion of a parcel where no regulated structures or uses are to be established.
- c) annexations of parcels in their entirety.
- d) lot line adjustments between adjacent lots, where neither lot is part of an approved subdivision, the beginning and ending number of lots is the same, all lots are conforming, and the resulting lots have their deeds revised and plats filed to reflect their new boundaries.
- e) the filing of plats for previous subdivisions that were never platted or the filing of plats due to resurvey.
- f) the filing of plats or recording of deeds for lots created by a public highway, public water or railroad.
- g) the granting of rights-of-way or easements other than access agreements in an approved subdivision.
- h) Creation of two lots from any existing lot within a five year period from the date of last subdivision involving that land, regardless of owner. However, such lots will still be required to obtain a zoning permit, and will be required to be surveyed, file a plat and have a state wastewater permit or deed notice.

6.6.3 NULLIFICATIONS/MODIFICATIONS

As part of the subdivision review and approval process, the Development Review Board may elect to nullify or modify, subject to appropriate conditions, the provisions of application or review procedures, and submittal and development requirements. The Board shall only grant such nullifications/modifications upon a determination that the individual circumstances of the lot(s), proposed uses (if provided) and surrounding area do not require such submittals or standards in order to fulfill the purposes of these bylaws and to protect the public health, safety and general welfare. The Board may require such conditions as will in its judgment secure substantially the objectives of the requirements nullified or modified. Such nullifications/modifications and their justification shall be in writing and included in the permit file. The request for a nullification/modification shall be made by the applicant, and it shall be the responsibility of the applicant to provide sufficient information to justify it and to enable the Development Review Board to reach a decision.

6.6.4 PRE-APPLICATION MEETING

Potential applicants for subdivisions are encouraged to attend a pre-application meeting with the Administrative Officer in order to avoid misunderstandings and to ensure a smooth application process. The purpose of a pre-application meeting is to familiarize the applicant with the requirements of these regulations, answer basic questions of procedure, and acquaint the applicant with likely submittal requirements according to the general concept the applicant is

considering. No written decision will be issued and no comments by either the applicant or the AO are binding.

6.6.5 APPLICATION REQUIREMENTS

An applicant for subdivision approval shall submit one (1) original and one (1) complete copy of an application which provides the following information to the DRB:

- a) Names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan;
- b) Names and addresses of all abutting property owners. (The Town of Barnard is responsible for notifying abutters; the landowner is responsible for providing the names and addresses of the abutters to the town.);
- c) A site plan, drawn to scale, which shows the following:
 1. names and addresses of all abutting property owners;
 2. north arrow, scale and application date;
 3. existing and proposed property boundaries, easements and rights-of way;
 4. existing site features, to include prominent topographic features and areas of steep slope (25% or greater); surface waters, wetlands and associated buffers;
 5. designated floodplain and source protection areas; land use and land cover; and critical habitat areas and historic sites;
 6. existing and proposed structures, including building footprints, building elevations depicting general design features, walls and fence lines, utilities, roads, driveways, parking and loading areas;
 7. existing and proposed traffic and pedestrian circulation patterns, including accesses onto or connections with adjoining properties, public roads and public waters, and associated sidewalks, pathways or trails serving the proposed development;
 8. water supply and wastewater disposal design details; and
 9. proposed grading, drainage, landscaping, screening, signs, and/or lighting details.
- d) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development; and
- e) Any additional information deemed necessary to determine project conformance with the provisions of these Regulations (e.g., site plan prepared by licensed engineer or surveyor; erosion control, storm water management plans; traffic, fiscal or visual impact analyses).

6.6.6 REVIEW

Upon a determination by the Administrative Officer that a subdivision application is complete, the AO shall notice a public hearing on the subdivision. The purpose of the hearing is for the DRB to fully understand the proposal and how it addresses all requirements of these regulations, consider any request to nullify or modify requirements under 6.6.3, review all special studies, identify significant issues or concerns associated with a proposed subdivision under the provisions of these regulations, establish all potential interested persons, provide abutters and other persons an opportunity to

comment on the proposal, and provide the Board with sufficient information to base its approval, approval with conditions, or denial. If the Board decides any additional information is needed from any party, it shall continue the hearing process until it is ready to proceed to a decision. As part of this continuance the Board shall set a time by which such additional information is due. Failure to produce needed information by the applicant may result in denial.

6.6.7 FINAL PLAN APPROVAL

Within 45 days of the date of adjournment of the final public hearing, the Development Review Board shall issue a written decision, with any conditions, approving, or disapproving the final subdivision plan, based on a determination of whether or not the final plan, with such conditions, conforms to any applicable subdivision review standards. Failure to act within this 45-day period shall be deemed approval on the 46th day.

6.6.8 PERFORMANCE BONDING

In accordance with the Act [§4464(b)(2),(6)], for any subdivision which requires the construction of roads or other public improvements, the Development Review Board may require that the subdivider post a performance bond or comparable surety satisfactory to the Selectboard or its designee to cover the cost and to ensure completion of specified improvements, and their maintenance for two (2) years following completion, in accordance with the conditions of approval. Such bond or surety must be approved by the Selectboard prior to final plan approval. The term of the bond or surety may be fixed by the Development Review Board for a maximum period of three (3) years, within which all improvements must be completed. The term of such bond or surety, by mutual consent of Board and subdivider, may be extended for an additional period not to exceed (3) three years. No plat may be signed unless all bonds have been put in place.

6.6.9 PHASING

At the time that the Development Review Board grants approval it may require the subdivision to be divided into two or more phases to ensure project conformity with the town plan and capital budget and program in effect to ensure the orderly development of the plat and/or to avoid overburdening municipal facilities and services.

6.6.10 CERTIFICATE OF COMPLIANCE

The Development Review Board may also require, as a condition of subdivision approval, that a certificate of compliance be obtained to ensure that required improvements have been installed in accordance with the conditions of subdivision approval prior to sale of lots or to any further land development on the lots. The satisfactory completion of any improvements shall be determined by the Administrative Officer.

Where a certificate of compliance has been required by the Board, the Administrative Officer shall not issue a zoning permit for any development on a subdivided lot within the subdivision until the certificate has been issued.

6.6.11 EFFECT OF FINAL PLAN APPROVAL

The approval by the Development Review Board of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Acceptance of such dedications by the subdivider may be accomplished only by a formal resolution of the Selectboard, in accordance with town road policies and state law.

6.6.12 PLAT RECORDING REQUIREMENTS

Within 180 days of the date of receipt of final subdivision approval under Section 6.4, the subdivider shall obtain the required signatures and file a signed and certified mylar plat in the Barnard land records in accordance with the requirements of 27 V.S.A. Chapter 17, and provide two (2) paper copies and one (1) digital copy of the recorded plat to the Administrative Officer. Approval of subdivision plats not filed within 180 days shall expire. No plats may be recorded except in conformation with this regulation.

The approved plat shall:

- a) Shall be 18"x24", or a multiple thereof;
- b) have a margin of 1.5" outside of the border lines on the top side for binding and a margin of 0.5" outside the border lines along all other sides;
- c) be signed by the chair and secretary of the Development Review Board,
- d) In cases when the subdivision has the state required deed notice instead of state approved septic design, a notice shall also be reproduced on the plat in at least 12 point font as follows
"Notice to Owner/Buyer: Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved."
- e) carry the following information and endorsement on the original to be filed in the Barnard Land Records.

ARTICLE 7: ADMINISTRATION, APPEALS AND ENFORCEMENT

7.1 ADMINISTRATIVE OFFICER

This Officer shall be appointed and charged with the responsibility of carrying out the administration and enforcement of these Regulations, as called for in the Act. An Administrative Officer, who may hold any other office in the municipality other than membership in the DRB, shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three (3) years promptly after the adoption of the first bylaws or when a vacancy exists. The Administrative Officer shall administer these Regulations literally, and shall not have the power to permit any land development which is not in conformance with these Regulations. The Administrative Officer may be removed for cause at any time by the Selectboard after consultation with the Planning Commission.

The Administrative Officer shall keep full records of all documents of their office as a permanent record. All necessary and reasonable expenses shall be paid by the Town of Barnard and the Administrative Officer shall be paid for their work at a rate set by the Selectboard.

7.2 DEVELOPMENT REVIEW BOARD (DRB)

7.2.1 MEMBERSHIP

The DRB shall consist of not less than three (3) nor more than nine (9) persons, appointed by the Selectboard, pursuant to Section 4460.

The number and terms of office of its members shall be so fixed by the Selectboard that not more than 1/3 of its members shall be reappointed or replaced during any future calendar year. Vacancies shall be filled by the Selectboard for the un-expired terms. Under Section 4461(c), all members of the Barnard DRB may be compensated for their duties and may be reimbursed for reasonable and necessary expenses. The Chairman of the DRB, with majority vote of the Board, may procure routine and incidental clerical, technical, and legal services. Contract for more extensive technical and legal services shall be with permission of the Board of Selectmen.

7.2.2 PROCEDURES

The Barnard DRB shall elect its own officers consisting of a Chairman and Clerk, and adopt rules of procedure pursuant to Section 4461.

7.2.3 POWERS

In addition to those specifically provided for elsewhere in Subchapter 11, Chapter 117, V.S.A. 24, the Barnard DRB has the following powers pursuant to Section 4465:

- a) To hear and decide appeals;
- b) To hear and grant or deny a request for a variance;
- c) To hear and grant or deny a request for a Site Plan, Conditional Use or Subdivision Approval.
- d) To hear and grant or deny a request for a waiver.

7.3 APPEALS, VARIANCES AND WAIVERS

7.3.1 APPEALS AND APPEAL PROCEDURES

Pursuant to Section 4465, an Interested Person may appeal any decision or act taken by the AO, or any failure to act, under these Regulations, by filing a notice of appeal with the Clerk of DRB. Such notice of appeal must be filed within 15 days of the date of such decision or act, and a copy of the notice of an appeal shall be filed with such officer. The Town of Barnard is responsible for notifying abutters.

7.3.2 VARIANCES

The DRB shall grant a variance from the provisions of these Regulations, and render a decision in favor of the appellant, if and only if, all the following facts are found to be true and such findings are specified in its decision:

- a) 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of these Regulations in the neighborhood or district in which the property is located;
- b) 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 these Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- c) That such unnecessary hardship has not been created by the applicant;
- d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of these regulations and of the plan.
- f) In the case of development in the Flood Hazard Overlay, any variance issued in the Special Flood Hazard Area shall comply with 44 CFR Section 60.6 and § 4424 (E), will not increase flood heights, and will inform the applicant in writing over the signature of a the AO that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

In rendering a decision in favor of an appellant, under these Regulations, the DRB may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of these Regulations and the Town Plan.

7.3.3 WAIVERS

Waivers from setbacks, buffers and lot sizes under Section 3.3.2 shall be handled using the same notice and hearing process as conditional use approval.

7.4 VIOLATIONS AND ENFORCEMENT

7.4.1 PENALTIES

The following penalty system shall apply:

- a) Whoever violates any provision of these Regulations after they have been adopted, shall be fined not more than \$100 (one hundred dollars) for each offense. Each day that a violation continues shall constitute a separate offense.
- b) No action may be brought under this Regulation unless the alleged offender has had at least seven (7) days notice, by certified mail, return receipt requested, that a violation exists. If the violation is not remedied within 7 days of notice, or appealed, the Administrative Officer shall file a copy of the notice of alleged violation in the municipal land use permit files, with the Town Clerk for filing in the land records, and shall also mail a copy to the alleged violator.

In cases of violations within the FHO, the notice shall also state that the violation may result in the loss of flood insurance and be sent to the state NFIP Coordinator and the Administrator of the National Flood Insurance Program as well. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The notice shall consist of: the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, a clear statement that the public body making the declaration has authority to do so and a citation to that authority, evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

- c) All fines collected for the violation of these Regulations shall be paid over to the Town of Barnard.

7.4.2 ENFORCEMENT

The AO shall institute in the name of the town any appropriate action to prevent, restrain, correct or abate a violation. If court action is needed, then the town may pursue enforcement through the Environmental Court or the Judicial Bureau as allowed in sections 4452-4454 of the Act. The imposition of a penalty shall not bar resort to other administrative or legal remedies or methods for preventing or correcting the violation or offense that the Administrative Officer is authorized to use under Section 4452.

ARTICLE 8: DEFINITIONS

8.1 GENERAL

All words and terms used in these Regulations shall have their customary and normal meanings except as defined in Section 8.2.

8.2. SPECIFIC

Abutting - Lots which have a common boundary or edge.

Accessory Fuel Pump - A facility accessory and subordinate to a commercial use for the retail sale of vehicular fuels. No more than two gasoline, one diesel, or one propane pump are allowed on the lot. No service facilities, such as for oil changes or repair work, are allowed.

Accessory Single-family Dwelling Unit - (see "*Dwelling*")

Accessory Use or Structure - A use or structure that is customarily incidental and subordinate to the principal use or structure on the same lot.

Adequate Capacity - Capacity for wireless telephony is considered to be "adequate" if the grade of service ("GOS") is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the covering area.

Adequate Coverage - Coverage for wireless telephony is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers property 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.

Advertising Sign - A structure which advertises or which is used as an outdoor display for the advertising of a property, establishment, enterprise or other matter. This does not include highway directional or warning signs.

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.

Alternative Design Tower Structure - 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).

Ambient Sound Levels - Includes all sound sources in an area including the sound(s) in question.

Ancillary Food Take Out Window Service - An accessory use to a restaurant where food is ordered and dispensed to customers from a window.

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 - A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.

Area of Shallow Flooding - A designated AO or AH zone on a Town's Flood Insurance Rate Map (FIRM) with a one percent or greater 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, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - The land in the floodplain within a Town subject to a one percent or greater chance of flooding in a given year. Also known as special flood hazard area.

Assisted Living Facility - Designed for and used by the elderly, a multi-family housing facility consisting of individual living units or apartments and common facilities such as recreational or medical facilities.

Available Space - The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Background Sound Level - Includes all sound sources in the area except the specific source(s) in question.

Base Flood - The flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) - The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Base Station - 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** - Any area of the building having its floor subgraded (below ground level).
- Building** - A type of structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel. (See also Structure)
- Building Line** - A line running along each side of a building and extending to the property lines.
- Bulletin 65** - Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.
- Bylaws** - Zoning regulations, subdivision regulations, or the official zoning map.
- 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 other 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.
- Channel** - The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.
- Co-location** - Locating wireless communications equipment from more than one provider on a single site.
- Commercial** - Any building, structure, or land which is used for business, service, or industrial purposes and is conducted for financial gain, but excluding a home occupation or home business.
- Commercial Garage** - Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, or repair of vehicles is conducted or rendered for commercial purposes, but not including home occupations, or home businesses.
- 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.

Community Association or Club Facility - A building, structure, or use of land intended for recreational, social, or cultural activities, owned by a local community group or non-profit organization.

Contractors' Yards – Storage yards operated by a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities. **Exceptions to this definition:**

1. Temporary storage of one or more pieces of heavy equipment, including but not limited to trucks, excavators, graders, cranes and trailers located on the job site on which construction is taking place shall not constitute a contractor's yard;
2. No more than three trucks, only one of which may be larger than 26,000 GVWR, are used in a Home Occupation or Home Business 1 or 2;
3. Equipment for personal use on a residential property;
4. Section 4.3.C) in 4.3 Exempt Land Development.

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

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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.

Drive-In Eating Places - A building where drive-up service is offered or where food and drink is prepared or offered for sale and consumption on or off the premises, but outside of the building.

Dwelling - A building or portion thereof, designed, constructed or used as separate living quarters for one family, and which includes facilities for food preparation, sleeping, and sanitary facilities and the right of the resident to use a minor portion of the structure as a home occupation.

Dwelling, Accessory Single-family Unit - A dwelling unit in an attached or detached building which is secondary or subordinate to a primary single family dwelling on the same lot and which does not exceed 1,500 square feet of living area, or 50% of the living area of the primary single family, dwelling and meets with the dimensional requirements of these Regulations.

Dwelling, Multi-Unit - A building designed for, or occupied solely as, a dwelling of either three (3) or (4) households living independently of each other.

Dwelling, Seasonal - A structure that was not intended or designed for permanent occupancy, is not a permanent residence, and is not occupied for more than six (6) months of the year. Note: seasonal dwellings in existence prior to April 4, 1988 are grandfathered.

Dwelling, Single-family Unit - A building designed for or occupied solely as a dwelling by one household. For the purposes of this regulation, the term also includes a residential care group home serving not more than 8 persons, or a licensed or registered home child care facility serving no more than six full-time and 4 part-time children.

Dwelling Two-family Unit - A building designed for or occupied solely as a dwelling by two households living independently of each other.

Earth Extraction - The commercial mining, excavation, quarrying or processing of sand, gravel or stone.

Educational, Recreational, or Philanthropic Building or Facility - A building or facility owned by a municipality, or similar governmental unit or a non-profit corporation for educational, recreational, or philanthropic purposes.

Existing manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FAA - Federal Aeronautics Administration

Facility - A structure and/or building or system of same providing the means by which something can be done.

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 - One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

Far Right of Way Edge - The edge of public road R.O.W. away from the sound to be measured as opposed to the near edge of the R.O.W. which is along the property in question.

Farming - (A) The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or (B) the raising, feeding or management of livestock, poultry, equines, fish or bees; or (C) the operation of greenhouses; or (D) the production of maple syrup; or (E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or (F) the on-site production of fuel or power from agricultural products or wastes produced on the farm.

Farm Structure - For the purposes of this Bylaw, “farm structure” means a building or structure for housing livestock, raising plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as “farming” is defined in section 6001 (22) of Title 10, but excludes a dwelling for human habitation.

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

Fence - A structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire, or rails.

FIA - Federal Insurance Administration

FHBM - The Flood Hazard Boundary Map means an official map of the Town, issued by the FIA, where the boundaries of the flood and mudslide (i.e., mudflow related to erosion) areas having special hazards have been designated as zones A, M and/or E.

Filling - The placement 10 or more yards of fill on a lot.

FIRM - The Flood Insurance Rate Map, an official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood - (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map – See FIRM.

Flood Insurance Study - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood proofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source (see definition of “flood”).

Floodway - The channel of a river or other watercourse and 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.

Frequency - The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

Frontage - That portion of a lot which is adjacent and parallel to a public road or street.

Gasoline Station - Any area of land including structures thereon principally used for the sale of gasoline or other motor fuel.

GHz - Gigahertz, or one billion hertz.

Governmental Building or Structure - A building or structure owned or leased by a municipality, county, state or federal agency that is used for governmental purposes.

Habitable Space - Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces and similar areas are not considered habitable space.

Hertz (Hz) - One hertz is the frequency of an electric or magnetic field, which reverses polarity once each second, or one cycle per second.

Historic Structure - Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved State program as determined by the Secretary of Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

Home Business - A business owned and operated by the resident of the land upon which the business operates. See Sections 4.9 and 4.10 for further information.

Home Occupation - An accessory use of a service, trade, or artisan character conducted within a dwelling by residents thereof which is clearly secondary to the use of the dwelling for living purposes that meets with the characteristics under Section 4.8 of these Regulations.

Hospital - An institution providing primary health services and medical or surgical care to patients.

Household - All the people, whether related or not, who occupy a housing unit as their place of residence.

Inn - A building with up to 10 lodging units that may also serve meals.

Interested Person - Interested persons are those persons who, under Title 24 V.S.A. Chapter 117, have the right to appeal an act or decision made by the Barnard Administrative Officer, Planning Commission, or Zoning DRB. Interested persons must participate in a hearing in order to protect their right to appeal the decision. Interested Persons include:

- 1) A person owning title to property affected by a by-law who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- 2) The municipality in which the plan or a by-law of which is at issue in an appeal brought under this chapter or any municipality which adjoins such municipality.
- 3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this chapter, 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 by-law of that municipality.
- 4) Any ten persons who may be any combination of voters or real property owners within Barnard who, by signed petition to the DRB of Barnard the plan or a by-law of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the plan or by-law of Barnard. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- 5) Any department and administrative subdivision of the State of Vermont owning property or any interest in property within Barnard, and the Agency of Development and Community Affairs of the State of Vermont.

Kenel - An establishment in which house pets are housed, bred, boarded, trained, or sold for commercial purposes.

L - Sound levels measured in decibels on a meter which meets the American National Standard Specification for Type 0, 1, or 2 Sound Level Meters S1.4-1983 or latest version thereof. Fast time-averaging and A-frequency weighting are to be used unless others are specified.

Land Development - 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, and any change in the use of any building or other structure, or land, or extension of use of land.

Large Group Home – A state-licenses residential care serving more than 8 individuals who have a handicap or disability as defined in 9 VSA section 4501.

Location - References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be references to true North.

Lodging - A building or buildings providing temporary public lodging.

Lot - A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law; to be used, developed or built upon as a unit, which is not divided by a public highway as defined by 19 V.S.A., Section 1 or surface waters with a drainage area greater than 10 square miles.

Lot Area - Total area within the property lines excluding any part thereof lying within the boundaries of a public street, actual or proposed and within the municipal boundaries.

Lot Line Adjustment - The subdivision of a parcel incidental to title transfers, between non-affiliated owners, for the purpose of establishing a clear property line. Setback requirements apply to existing structures.

Lowest Floor - 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 Section 60.3

Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing, Light - Woodworking shops, craft shops, printing shops, repair and service facilities and other similar businesses and industries.

Maximum Height - Vertical distance measured from the lowest point of the average proposed finish grade at the edge of the structure to the highest point of the roof.

Mean Sea Level - 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 Town's Flood Insurance Rate Map are referenced.

Merchandise - Things bought and/or sold; goods, commodities and wares.

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 Antenna - A dish-like antenna manufactured in many sized and shapes used to link communication sites together by wireless transmission of voice or data.

Preexisting Towers and Antennas - Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Mobile Home Park - The use of land for the placement of mobile homes as defined in VSA 10 Chapter 153 Section 6201(C)(2).

Monitoring - The measurement, by the use of instruments in the field, or radio frequency exposure from telecommunications facilities, towers, antennas or repeaters.

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.

Multi-unit Dwelling (see "*Dwelling*")

Municipal Building and Facility - A building or facility owned by the Town of Barnard, or similar municipal entity for the purpose of providing local public services including the following uses,

schools, town hall, town offices, public library, police station, fire houses, town garages, parks, cemeteries, parking areas, and solid waste disposal or transfer stations.

New Construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the Town of Barnard and includes any subsequent improvements to such structures.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Non-Conforming Structure - A structure or part thereof not in compliance with the zoning regulations covering building bulk, dimensions, height, area, setbacks, off-street parking or loading requirements, where such structure existed and conformed to all applicable laws, ordinances and regulations prior to the enactment of these zoning regulations or amendments hereto.

Non-Conforming Use - A use which lawfully occupied a structure or land at the effective date of these zoning regulations or amendments thereto and that does not conform to the use regulations of the District in which it is located.

Non-formula - the use may or may not be a franchised business but it may not have a common formula exterior design and signage may not be internally lit and must comply with other sign limits.

Non-Permanent Structure - A structure or vehicle not hooked up to septic or water which can be dismantled or removed from the lot. Motor vehicles and farm equipment are not considered structures provided that the only land use for same is parking or storage.

Nursing Home Facility - An extended or intermediate care facility licensed or approved by the State to provide full-time maintenance, personal, convalescent and/or nursing care to individuals who are unable to care for themselves.

Omnidirectional Antenna - An antenna that is equally effective in all direction and whose size varies with the frequency and gain for which it is designed.

Parking Space - An area 12 feet wide and 20 feet long designated for parking one motor vehicle

Permitted Use - A use requiring a permit.

Person - An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

Personal Communications Services (PCS) - Digital wireless telephone technology using higher frequency spectrum than cellular.

Personal Wireless Services - Commercial mobile services, unlicensed wireless exchange access services. These services include cellular services, personal communication services, specialized mobile radio services, and paging services.

Primitive Camp - A camp on its own individual lot, that is not intended or designed for permanent occupancy with no interior plumbing consisting of more than a sink for water, that is used for no more than a total of sixty (60) days per year.

Principal Building - Building in which is conducted the main or principal use of the lot on which said building is located, such as a residence or business. Such a building does not include accessory structures, even if that is the main use of the property.

Professional Office - An office where a business of a service nature is provided.

Property Line - A line of record bounding a lot that divides it from an abutting lot or from a public or private street.

Public Building or Facility - Those buildings and public buildings defined in Title 18 V.S.A., S1301, and including but not limited to dwellings of two or more units, places of employment, motels and hotels, restaurants, filling stations, boarding homes and rooming houses, places of public assembly, stores, shops, offices, manufacturing and industrial facilities in which persons are employed, condominiums and apartments. For the purposes of these Regulations, "public building" shall not mean hospitals or nursing homes that are under the jurisdiction of the Vermont Department of Health, or single-family residences under individual ownership.

Public Place of Worship - A building, structure, or use of land primarily intended for conducting of organized public religious services or associated activities.

Public Utility Building or Facility - A building or facility owned or operated by an agency or corporation under public franchise or certificate for the purpose of providing a public service including electricity and communications.

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 a need and whether the telecommunications equipment will provide adequate coverage for that site.

Recreational Use or Structure - A place designed and equipped for the conduct of recreational activities of a non-commercial nature, including tennis courts, swimming pools, ponds, riding rinks and indoor arenas.

Recreational vehicle - A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Rental of Single-Family and Two-Family Dwellings - Occupancy of any dwelling or dwelling unit permitted under these ordinances may at any time be the property owner(s) or their tenant(s), regardless of length of stay. The total number of occupants is limited to that number approved under zoning or septic permits for each dwelling or dwelling unit.

Repeater - A small receiver/relay transmitter and antenna or 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.

Restaurant - An establishment where food and drink is prepared and served to patrons at tables or at counters within the principal building.

Retail - The sale of goods or articles individually or in small quantities directly to the consumer.

Retail Business - An establishment selling goods or services to the general public.

Road or Street - A road, highway or street open and available to public use and meaning the entire width of the right-of-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.

Sanitary Sewage Facilities - All sewage disposal facilities including inside and outside sewage lines, septic tanks, and leach fields.

Scenic View - A scenic view is a wide angle or panoramic field of sight and may include natural and/or man-made 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 to a nearby object.

Schools or Colleges - Any building, structure, or use of land which is designed, and constructed for education or instruction in any branch of knowledge and operated by an institution authorized by the State.

Seasonal Dwelling Unit - (see *“Dwelling”*)

Self-supporting Tower - A communications tower that is constructed without guy wires.

Setback - The minimum distance between any part of any structure and (1) the center line of a public road or public right-of-way road, (2) any property line, or (3) public waters

Sign - Any structure, display, device, or representation designed or used to call attention to any thing, person, business, activity, or place visible from any public road or vehicular right-of-way. A sign does not include the flag, pennant, or insignia of the nation, state, or Town, official announcements or similar signs of government. See Section 6.5.

Single-Family Dwelling Unit - (see *“Dwelling”*)

Special Flood Hazard Area - (also Area of Special Flood Hazard) The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

Spectrum - Relating to any transmissions or reception of electromagnetic waves.

Start of Construction - This includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Stealth Facility - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure).

Street Line - The line dividing the street and the lot. Where width of street is not established or cannot be determined, the street line shall be twenty-five (25) feet from the center of the street.

Structurally Able - 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.

Structure - A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. *For floodplain management purposes means*, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure, for flood insurance purposes, means:* (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure

before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Summer Camp - A seasonal recreational facility operated for a profit for adults, families, or children.

System - The communications transmission system operated by a telecommunications service provider in the town of Barnard or in the 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.

Tower - A vertical structure for antenna(s) that provide telecommunications services

Trail facilities – Actual trails and associated minor structures including kiosks, unpaved parking areas, lean tos, etc.

Two-family Dwelling Unit - (see "*Dwelling*")

Vermont Law - Vermont Municipal and Regional Planning and Development Act, Title 24 Vermont Statutes Annotated Chapter 117, with additional associated sections including Act 250 and the Downtown Development Act.

Veterinary Hospital - An institution providing health services to animals suffering from illness including related facilities such as laboratories and boarding facilities.

View Corridor - A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Violation - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Wall - An architectural partition with a height and length greater than its thickness that is used to divide or enclose an area or to support another structure. A retaining wall is a wall that is built to resist lateral pressure (especially a wall built to prevent the advance of a mass of earth).

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 or more).