

ZONING REGULATIONS

Town of Barre

ADOPTED: June 10, 1997
Revised : 2002

ARTICLE I

ENACTMENT AND INTENT

SECTION 100 TITLE

The title of this code is the "Town of Barre Zoning Ordinance, Orleans County, New York", and shall include this text and zoning map.

SECTION 101 PURPOSE

This Zoning Ordinance is adopted pursuant to the Town Law of the State of New York, to promote and protect the public health, safety and general welfare and in furtherance of the following related and more specific purposes:

1. To protect the open, rural and natural character of the land.
2. To preserve the town's natural resources and habitats.
3. To guide and regulate the orderly growth, development and redevelopment of the Town of Barre in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.

SECTION 102 CONFLICT WITH OTHER LAWS

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rules, regulations, codes, ordinances or local laws, the most restrictive of such rules, regulations, codes, or ordinances or those imposing the higher standards shall govern.

SECTION 103 VALIDITY AND SEVERABILITY

Should any section of or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so decided to be unconstitutional or otherwise invalid.

SECTION 104 CONSISTENCY WITH COMPREHENSIVE PLAN

The provisions and regulations of this Zoning Ordinance and interpretations thereof shall be made in accordance with the objectives of the Town's Comprehensive Plan.

SECTION 105 AMENDMENTS

A. Procedure

The Town Board may from time to time on its own motion, on petition or on recommendation of the Planning Board, and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Ordinance.

B. Filing of Petition

A petition to amend, change or supplement the text of this Ordinance or any zoning district as designated on the Zoning Map established herein shall be filed with the Town Clerk and accompanied by the appropriate fees. The Clerk shall transmit the documentation to the Town Board. A petition for a change to the Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for a change to the Official Zoning Map shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.

C. Referral to Planning Board

Each proposed amendment, except those initiated by the Planning Board, shall be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its approval, as may be appropriate, and shall state whether such amendment is in harmony with the Town's plan for land use. The Planning Board shall state its position relative to proposed zoning amendments in writing within forty-five (45) days of the receipt of all pertinent data from the Town Board. Absence of a reply from the Planning Board within the forty-five (45) day period shall indicate that the Board is in favor of the amendment.

D. Public Hearing; Notice; Referrals; Recording of Actions

Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices, referrals to the County Planning Board, and proper recording of zoning actions taken by the Town Board shall apply to all amendments to this Ordinance.

E. Disposition Final; Rehearing on Petition

The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one (1).

SECTION 106 REPEALER

The text of the Barre Zoning Ordinance and the Zoning Map of the Town of Barre, Orleans County, New York, enacted by the Town Board of the Town of Barre and as the same from time to time have been amended, are hereby repealed and amended in their entirety as set forth below, superseding all previous enactments and amendments, and from their taking effect, all such previous enactments and amendments thereto shall be repealed.

SECTION 107 EFFECTIVE DATE

This Ordinance shall be in effect immediately upon adoption and the posting and filing of notice of adoption as required by State Law.

SECTION 108 ENFORCEMENT ACTIONS

- A. If the Code Enforcement Officer discovers a project commencing without the required permits, he shall undertake enforcement actions as authorized by this Ordinance and other provisions of NYS Law.
- B. The Town may maintain an action for a temporary restraining order, temporary injunction, or injunction to restrain, correct, or abate any violation of this Ordinance or any failure to comply with any of the provisions of this Ordinance.

SECTION 109 VIOLATIONS AND PENALTIES

Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$250.00 or imprisonment for a period not more than six (6) months or both. Each day a violation is continued shall be deemed a separate offense.

SECTION 110 FEES

- A. Each application for a permit provided for by this Ordinance shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney, according to the fee structure in effect at the time of application. Fees shall be established annually by resolution of the Town Board.
- C. A fee schedule shall be posted at the Town Clerk's office.

ARTICLE II

WORD USAGE AND DEFINITIONS

SECTION 200 WORD USAGE; ADMINISTRATIVE AGENCIES DEFINED

For the purpose of this Ordinance, certain words and terms used herein shall be defined as follows:

A. Word Usage

1. All words used in the present tense include the future tense.
2. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
3. The word "person" includes an association, partnership or corporation.
4. Unless otherwise specified, all distances shall be measured horizontally along the ground.
5. The word "building" includes the word "structure".
6. "Lot" includes the words "plot", "parcel", "tract" or "site".
7. The word "premises" includes a lot and all buildings or structures thereon.
8. To "erect", to "construct" and to "build" a building or structure each have the same meaning and also include to "excavate" for a building and to "relocate" a building by moving it from one location to another.
9. "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied".
10. "Shall" is mandatory and not discretionary; "may" is permissive.

B. Administrative Agencies Defined

BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Barre.

COUNTY PLANNING BOARD - The Planning Board of the County of Orleans.

DEPARTMENT OF HEALTH - The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

PLANNING BOARD - The Planning Board of the Town of Barre.

TOWN BOARD - The Town Board of the Town of Barre.

CODE ENFORCEMENT OFFICER - The official or officials designated by the Town Board of the Town of Barre to enforce the provisions of this Ordinance.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION - The New York State Department of Environmental Conservation.

SECTION 201 DEFINITIONS

ACCESSORY BUILDING OR STRUCTURE: A detached building or structure which: (1) is customarily incidental and subordinate to, and serves a principal building; (2) is subordinate in area, extent or purpose to the principal building served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building use; and, (4) is located on the same parcel as the principal building. This definition shall include private garages.

ACCESSORY USE: A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

ADULT BOOKSTORE: Any business enterprise having as a substantial portion of its stock-in-trade books, magazines, pamphlets, pictures, drawings, photographs, and audio/visual material of any kind, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise having a substantial area of its establishment devoted to the sale, rental and display of such material.

ADULT ENTERTAINMENT ESTABLISHMENT: Any business enterprise having as a substantial portion of its activity the presentation of live shows, motion-picture films or sound recordings, or similar visual or audio material, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise serving food and beer, wine or liquor whose entertainers or waiters and waitresses appear in a state that displays areas of the anatomy customarily associated with sexual activities; or any business enterprise that offers services requiring the client or customer to display said anatomical areas, except medical and health services establishments.

AGRICULTURAL PRODUCT PROCESSING FACILITY: A facility in which agricultural products, which are not produced on the premises, are altered for the purpose of canning, freezing, or other packaging, or are converted or incorporated into other products.

AGRICULTURAL PRODUCT DISTRIBUTION CENTER: A facility in which agricultural products, which are not produced on the premises, are graded, sorted, and/or packaged for the purpose of distribution by truck, rail, or other means.

AGRICULTURE (FARMING): The use of land for agricultural production purposes including, but not limited to: tilling of the soil, dairying, pasturage, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

AIRPORT: Any area of land designed for the operation of general aviation aircraft, including hangars for storage and servicing, taxiways, landing strips and accessory uses.

AIRSTRIP, PRIVATE: An airport, as defined above, used solely for the benefit of the landowner and for emergency landing when necessary.

ALTERATIONS: As applied to a building or structure; (1) the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; (2) an enlargement of a building or structure, whether by extending on a side or by increasing in height; (3) the moving from one location or position to another; and (4) any alteration whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of non-bearing partitions.

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors and solar greenhouses, heat pumps, or other related devices. For the purposes of this Ordinance, this definition shall apply to individual residences and businesses. Commercial generating plants are excluded.

ANIMAL HOSPITAL: A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation of such animals. It may also include boarding that is incidental to the primary activity.

ANTENNA: A structure or mount supporting a system of wires, rods, discs, dish, horns, or similar devices used for the transmission and/or reception of electromagnetic waves.

APARTMENT: A dwelling unit that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boarding house or travel trailer.

APARTMENT BUILDING: A building arranged, intended or designed to provide three (3) or more dwelling units independent of each other, and which may have common hallways and/or entrances.

AUTOMOBILE SERVICE STATION OR FILLING STATION: A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, or where minor repair service and vehicle state inspections may be rendered.

AUTOMOBILE WRECKING: The dismantling or disassembling of used motor vehicles, mobile homes or manufactured housing; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT: That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of grounds adjoining the building. (See also "CELLAR.")

BED AND BREAKFAST: A single-family dwelling where overnight lodging, with or without the service of meals, is offered to transient guests for compensation. Such use shall be clearly incidental and secondary to the principal use of the dwelling. This term includes hostels and Tourist Homes establishments but does not include hotels, tourist courts, motor lodges, tourist cabins or similar terms.

BUFFER AREA: A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, designed to provide a physical screen to limit visibility between uses and reduce the escape and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

BUILDING: Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals, or property.

BUILDING CODE: The New York State Uniform Fire Prevention and Building Code.

BUILDING COVERAGE, PERCENT OF: The percent of building coverage of any lot shall be equal to one hundred (100) times the ratio of the gross horizontal area of all principal and accessory buildings that have roofs on them (including covered breeze ways, covered porches, covered cantilevered structures, etc.) measured from the exterior faces of the exterior walls but shall not include any structure (such as a patio or deck) that does not have a roof, divided by the horizontal area of the lot.

BUILDING GROUP: Any building, such as a store group, which is divided into separate parts by one (1) or more unpierced walls, extending from the ground up.

BUILDING HEIGHT: The vertical distance measured, in the case of a building with a flat roof, from the curb level to the level of the highest point of the roof beams, and in the case of a building with a pitched roof, from the curb level halfway between the top of the plate and the ridge, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

BUILDING LINE: A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yard and setback requirements are measured to the building lines.

BUILDING PERMIT: A written permit issued by the Code Enforcement Officer documenting compliance with the Building Code.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

BUSINESS: Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type. For the purpose of this Chapter, "business" shall have the same meaning as commercial, and reference to commercial districts or zones shall be interpreted as referring to business districts.

CAMPING GROUND: A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile homes or manufactured housing designed for year-round occupancy or as a place of residence.

CAR WASH: A structure or building designed for the washing, waxing, or similar treatment of automotive vehicles as its principal function. A FILLING STATION having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the FILLING STATION.

CARPORT: A roofed structure without enclosing walls, used for the storage of one or more motor vehicles.

CELLAR: That space of a building that is partly or wholly below grade level, which has more than two-thirds of its height, measured from floor to ceiling, below the average established curb level or finished grade of grounds adjoining the building.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or upon the completion of a project requiring site plan approval. Said certificate shall acknowledge compliance with all requirements of the Town's Code, Ordinances, Local Laws, Variances and Special Permits in existence as of the date of the issuance of the Certificate of Compliance.

CERTIFICATE OF OCCUPANCY: A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said Certificate shall acknowledge compliance with all of the requirements of the Building Code.

CHURCH: Any structure used for worship or religious instruction including social and administrative rooms accessory thereto.

CLEAR SIGHT TRIANGLE: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-way lines.

CLUB: Any organization catering to members and their guests, or a building or premises used for recreational, general, social, or athletic purposes not open to the general public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for the membership and purposes of such club. For the purpose of this Ordinance, this term shall include: religious organizations; lodges; fraternal organizations; mutual benefit societies; snowmobiling, archery or hunting clubs; and other similar organizations.

CLUSTER DEVELOPMENT: A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

CODE ENFORCEMENT OFFICER: The official designated to administer and enforce this Ordinance by granting or denying development permits in accordance with its provisions.

COMMON AREA: Space reserved for use by any and all residents of a housing development including, but not limited to, halls, stairways and landings in apartment houses.

COMMUNICATION TOWER: See "TELECOMMUNICATIONS FACILITY".

CONDOMINIUM: An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

CONFERENCE/ RESORT COMPLEX: Grounds or facilities used or designed for use by the public or for groups for meetings, conferences or recreational purposes. This definition shall not include membership clubs or public parks and playgrounds, as defined under "Public and Semi-Public Buildings and Grounds."

DAY CARE, CHILD: Care provided for three (3) or more children away from their own home for more than 3 hours but less than 24 hours per day per child, which care is provided with or without compensation or payment.

DAY CARE, HOME (FAMILY): Day care of not more than six (6) children provided in a family home.

DAY CARE CENTER: A place other than an occupied residence which provides day care of children; or, an occupied residence which provides group care for seven (7) or more children away from their own homes.

DEVELOPMENT: Any change made to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DRIVE-IN BUSINESS: A business providing service or delivery of goods to persons in a vehicle, the vehicle being driven to a position designed to provide that service or goods from inside a building. This term shall include drive-in outdoor theaters, drive-in banking, drive-in photo processing, fast food establishments, auto washing facilities, refreshment stands, and similar uses. This term shall not include retail fuel outlets or filling stations.

DRIVEWAY: A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a driveway.

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place for one (1) or more persons. Structures which do not have permanent or approved sanitary facilities shall not be considered a residential dwelling.

SINGLE FAMILY: A detached residential dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached building containing two dwelling units, each of which contains no more than three bedrooms, and which is designed for occupancy by not more than two families. A duplex is a two-family dwelling which is designed with a common wall. This definition shall not include buildings designed for occupancy by two families, in which one or more of the dwelling units contains more than four bedrooms.

MULTIPLE FAMILY: A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. This definition shall include buildings designed for two family occupancy, in which one or more of the dwelling units contains four or more bedrooms.

SEASONAL DWELLING: A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages, summer cottages, and vacation lodges. This definition does not include recreational vehicles, travel trailers, or other vehicles.

DWELLING UNIT: One room or rooms connected together for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, designed for occupancy by one family.

EASEMENT: A specified (limited) use of private land for a public or quasi-public purpose.

ENVIRONMENTAL ASSESSMENT FORM (EAF): The form required by Town boards or agencies to assess the potential environmental impacts of a proposed action and to determine the environmental significance of a proposal.

ENVIRONMENTAL IMPACT STATEMENT: A written document, prepared in accordance with State Environmental Quality Review Act (SEQR) regulations, which documents the potential environmental impacts of a proposed action and alternative actions.

ESSENTIAL SERVICES AND UTILITIES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities, but shall not include telecommunications facilities as defined herein.

EXCAVATION (Quarry, Sand Pit, Gravel Pit): A lot or land or part thereof used for the purposes of extracting stone, sand, or gravel for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

FAMILY: One or more persons, usually but not necessarily related by blood, marriage or adoption, living together as a single, not-for-profit housekeeping unit.

FARM: Any parcel used for agriculture as defined herein. It includes necessary farm structures within the prescribed limitations and the storage of equipment used. It excludes riding academies and livery or boarding stables and kennels.

FARM ANIMAL: This term shall include horses, cows, goats, sheep, pigs, rabbits, fowls, and other similar animals.

FARM BUILDING: Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operating of the farm as defined by this Article.

FARM LABOR CAMP: Any structure or combination of structures, building or buildings in which people are housed on a farmer's own land who are employed in the individual farmer's personal farming operation, on that farmer's land or land that he has under his control by a valid and existing lease.

FARM MARKET: Retail outlet consisting of permanent structure(s) for the display and sale of agricultural and nursery products primarily grown by the operator.

FENCE: A structure of wood, masonry, wire mesh or other material, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FLAG LOT: A type of lot (commonly flag-shaped in configuration) in which street frontage is provided by a strip of land which is narrow in relation to the remainder of the lot and which extends from the main body of the lot to the street. A lot which does not physically front on or abut a street, but which has access to a street by means of an easement over other property, shall be deemed to be included in this definition. The portion of the lot that provides access to the interior portion of the lot shall not be less than twenty (20) feet in width, shall not be considered buildable and shall not be used in the calculation of the minimum lot area requirements for the zone district. The interior portion of the lot shall meet the minimum lot area requirements for the zone district.

FLAG LOT, ACCESS PORTION: The panhandle portion of a flag lot having at least twenty (20) feet in lot width and which provides an access corridor between a public road, street or highway right-of-way to the interior portion of a flag lot.

FLAG LOT, INTERIOR PORTION: That portion of a flag lot having sufficient lot area, width and depth to meet the minimum requirements of the zone district, and which excludes the access portion of the lot.

FLOOD HAZARD DISTRICT: Refer to the Town of Barre Local Law for Flood Damage Prevention, 1987, as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law.

FLOOR AREA: For the purposes of applying the requirements for off-street parking and loading, "floor area", in the case of offices, merchandising or service types of uses, shall mean the floor area used or intended to be used by tenants or for service to the public as customers, patron, clients or patients, including areas occupied by fixtures and equipment used for display or sales of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting rooms or alteration rooms.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of several floors of a building or buildings, measured from the inside faces of exterior walls or from the inside faces of exterior walls or from the center line of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for non-public purposes such as storage, restrooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. A floor used only for storage purposes is not a "habitable floor". All dimensions shall be measured from the interior faces of exterior walls or from the center line of the base of walls separating two dwelling units.

FRONTAGE: All of the property abutting one side of a road, street, or thoroughfare, measured along the road, street or thoroughfare line.

GARAGE, PRIVATE: An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit. A garage cannot serve as the principal use on any lot.

GARAGE, PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, recreational vehicles, boats or other tangible personal property.

HOME OCCUPATION: Any occupation or profession customarily conducted entirely within a dwelling or a building accessory to the dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles.

For the purpose of these regulations, a "Home Occupation" shall not include: 1) Occasional sales of goods, such as yard sales, "Tupperware parties," and the like, provided that such sales do not occur on more than ten days during a single calendar year; or 2) A home office for a business that is primarily conducted outside of the home, provided that no clients or customers visit the office on a regular basis.

HOUSEHOLDER: An individual who resides in a dwelling unit and who owns, rents or otherwise has legal possession of such unit.

JUNK YARD: A lot, land or structure or part thereof used for the collection, storage, disassembly, packing, sorting, salvage, buying, selling or exchange of waste paper, rags, scrap, or discarded materials or machinery, or parts of any sort. More than two (2) abandoned, unregistered, disabled, dismantled, or partly dismantled vehicles, or pieces of equipment, allowed to remain unhoued on a premises for a period of more than thirty (30) days shall constitute a junkyard. Also, the unhoued storage, sale, or abandonment of waste paper, rags, scrap metal, discarded materials, or the collecting, dismantling, storage, salvaging or abandonment of machinery, appliances or vehicles not in operating condition shall constitute a junkyard. Automobile junk yards as defined in General Municipal Law, Section 136 shall be included within this definition.

KENNEL: Any lot or premises on which six (6) or more domestic animals more than six (6) months of age are housed, groomed, bred, boarded, trained, or sold.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT: A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

LOT (CORNER): A parcel of land at the junction of, and fronting on two or more intersecting streets, roads, or thoroughfares.

LOT (THROUGH): An interior lot having frontage on two parallel or approximately parallel streets, roads, or thoroughfares.

LOT AREA: The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance from the right of way line of the street to the rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The linear distance along a lot line which adjoins the road or highway which provides access to the lot.

LOT LINE: The property lines bounding the lot:

1. Lot Line, Front: The line separating the lot from a street right-of-way.
2. Lot Line, Rear: The lot line opposite and most distant from the front lot line.
3. Lot Line, Side: Any lot line other than a front or rear lot line.

LOT OF RECORD: A lot which is part of an approved subdivision recorded in the Office of the County Clerk or a lot described by metes and bounds, the description of which has been so recorded.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front setback regulations.

MANUFACTURED HOUSING: A structure transportable in one or more sections, which in the traveling mode is eight foot six inches or more in width or forty body feet or more in length, and which is constructed to either H.U.D. Federal code or NYS building code.

MANUFACTURED HOME PARK: Any site, lot, field, plot, parcel or tract of land on which two (2) or more manufactured homes are parked or located and are occupied or intended for occupancy on the premises, and for which either the said premises or manufactured homes are offered to the public for a fee of any type, including cost sharing. This includes the rental of the said premises and/or the manufactured homes.

MINING: The use of an area of land to remove minerals, metals or other items of value from the ground for a profit, including gas and oil wells.

MOBILE HOME: A factory constructed dwelling constructed prior to June 15, 1976, which does not meet H.U.D. Federal code or N.Y.S. building code.

MODULAR HOME: A structure which is constructed according to the standards set forth in the state building code and, among other possibilities, may consist of two or more sections transported to the site in a manner similar to Manufactured Housing, or a series of panels or room sections transported on a truck and erected or joined together on the site. Modular homes may or may not have an integrated chassis.

MOTEL: A building or group of buildings, whether detached or in connected units, containing sleeping units or lodging facilities for transient guests. Accessory facilities such as restaurants, meeting rooms, retail business activities and other similar services, which solely accommodate the motel patrons and not the general public, are allowed. The term motel includes buildings designated as auto cabins, auto courts, motor lodges, tourist courts, hotels and similar terms.

MOTOR VEHICLE: Any vehicle designed to be propelled or drawn by power other than muscle power, except electrically driven wheelchairs being operated or driven by an invalid. This term shall include automobiles, trucks, buses, motorcycles, tractor-trailers, boats, motor homes, snowmobiles, all-terrain vehicles and garden and lawn tractors.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles for compensation.

MOTOR VEHICLE OR MANUFACTURED HOME SALES: An open area, other than a street, used for the display, sale, lease or rental of new or used motor vehicles or manufactured homes in operable condition and where no repair work is done.

NEIGHBORHOOD BUSINESS: Small commercial establishments, containing less than 6,000 square feet in gross floor area, catering primarily to nearby residential areas and providing convenience goods and services including but not limited to grocery stores, drug stores, beauty salons, barber shops, carry out dry cleaning and laundry pickup stations.

NON-CONFORMING BUILDING OR STRUCTURE: A building or structure legally existing at the time of enactment of this Ordinance or any amendment thereto, and which does not conform to the area or dimensional regulations of the district or zone in which it is situated.

NON-CONFORMING LOT: A lot of record existing at the date of the enactment of the Ordinance which does not have the minimum width, depth or area for the district in which it is located.

NON-CONFORMING USE: Any use of land, buildings or structures, legally existing at the time of enactment of this Ordinance, and which does not legally conform to the regulations of the district or zone in which it is located.

OFFICE BUILDING: A building in which office use comprises more than fifty (50) percent of the total floor area. This does not include home occupations, where offices are a secondary or incidental use.

OPEN SPACE: Area unoccupied by any building, structure or parking area, whether paved or unpaved.

OPEN STORAGE: An unenclosed area used for temporary or seasonal storage of vehicles, materials, building supplies, stock, or supplies for later use in conjunction with a permitted principal use, accessory use, or special permitted use.

PARKING SPACE: Space available for the parking of one motor vehicle and having an area of not less than 180 square feet (9 by 20 feet), exclusive of passageways and driveways providing access thereto.

PARKING OFF-STREET: An off-street area with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PERMITTED USE: A land use listed in the Zoning District regulations of this Ordinance as permitted.

PINBALL OR VIDEO GAME ARCADE: Any indoor place or enclosure in which is maintained or operated, for the amusement, patronage, or recreation of the public, three (3) or more coin-controlled amusement devices, including the types commonly known as pinball, video games, and foosball.

PRINCIPAL BUILDING: A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE: The main or primary purpose for which a building, structure or lot is to be used.

PROFESSIONAL OFFICES: The office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to, medical doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

PROFESSIONAL SERVICES: A specific activity performed by a qualified person(s) which requires training and/or specialized study.

PUBLIC AND SEMI-PUBLIC USES: This definition is intended to include, but not be limited to, any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Cemeteries and associated uses.
2. Churches, places of worship, parish houses and convents.
3. Public or semi-public parks, playgrounds and recreational areas when authorized or operated by a governmental authority, school, or religious institution.
4. Nursery schools, elementary schools, high schools, colleges, or universities.
5. Public libraries and museums.

6. Not-for-profit fire, ambulance and public safety buildings.
7. Administrative office buildings and related facilities operated by public agencies.
8. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes for adults, or homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
9. Not-for-profit membership corporation or club established for cultural, social, or recreational purposes.
10. Day care centers approved by the New York State Department of Social Services.

PUBLIC MARKET: A site which provides space, on a rental or fee basis, for growers to sell agricultural products to the general public.

RECREATION OR AMUSEMENT FACILITY: A facility used or designed to be used for either public or private (commercial) recreational purposes. Outdoor facilities include, but are not limited to, golf courses, driving range, miniature golf, and race tracks. Indoor facilities include, but are not limited to, bowling alleys and health clubs. This definition shall not include stables or riding facilities or parks or playgrounds operated by a government agency or non-profit organization for public use.

RECREATIONAL VEHICLE: A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic types are:

A. Travel Trailer

A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight feet and six inches (8'6"), excluding awnings, and a body length of no more than forty (40) feet when factory equipped for the road.

B. Tent Camper

A portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

C. Truck Camper

A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:

1. Slide-in camper - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
2. Chassis-mount camper - A portable unit designed to be affixed to a truck chassis.

D. Motor home - A vehicular unit built on a self-propelled motor vehicle chassis.

RESIDENTIAL CONVERSION: The conversion of the use of a building from non-residential to residential use or the structural alteration of an existing residential structure to increase the number of residential units in the structure.

RESTAURANT: Any establishment, however designated, at which food or drink is sold for consumption to patrons seated within an enclosed building or on the premises.

RESERVOIR SPACE: Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this Ordinance. One (1) reservoir space shall be twenty-four (24) feet long and ten (10) feet wide.

RETAIL FUEL OUTLET: Any establishment that sells gasoline, diesel, kerosene, propane, or similar fuels to the public. This includes automobile service stations, convenience stores, car washes or any other facility that sells fuels.

RIDING STABLE: Any use housing animal livestock, such as horses, and providing such livestock to the public for riding on a pay per use or fixed fee basis.

RIGHT-OF-WAY: Land set aside for use as a street, alley, or other means of travel.

RIGHT-OF-WAY LINE: The line determining the street or highway limit of public ownership. For the purposes of this Ordinance, the right-of-way line and the street line shall have the same meaning.

ROAD, ARTERIAL: A road, normally a State Highway, which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

ROAD, COLLECTOR: A road which serves or is designed to carry traffic from minor streets to the arterial street system.

ROAD, MINOR (LOCAL): A street or road used primarily to provide access to abutting properties.

ROADSIDE STAND: Retail outlet, consisting of non-permanent structures (movable and temporary), for the sale of agricultural products grown principally by the operator during the harvest season. (See also "Farm Market.")

ROOMING HOUSE: A dwelling other than a hotel, motel or tourist home, where more than two (2) persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a tourist home in that it is designed to be occupied by longer term residents as opposed to overnight or weekly guests.

SATELLITE DISH ANTENNA: Shall mean a combination of: an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources; and a low noise amplifier whose purpose is to carry signals into the interior of a building, but shall not include a telecommunications facility as defined herein.

SEASONAL SERVICE RESTAURANT: A restaurant which operates only seasonally. Included are coffee shops, lunch counters, and ice cream parlors.

SERVICE ESTABLISHMENT: A business primarily involved in the provision of services, rather than goods, to other businesses or to the general public.

SETBACK: The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks". Setbacks from side lot lines are "side setbacks". Setbacks from rear lot lines are "rear setbacks".

SHOPPING CENTER: A group of stores, shops and similar establishments occupying adjoining structures or two (2) or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGHT DISTANCE: The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others.

SIGN AREA: The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

SITE PLAN: A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SITE PLAN, FINAL: A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

SITE PLAN, PRELIMINARY: A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

SITE PLAN, SKETCH: An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of the proposed subdivision or site.

SITE PLAN REVIEW: A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this Ordinance.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade.

SPECIAL PERMIT USES: Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this Ordinance are met.

STREET LINE: See "RIGHT-OF-WAY LINE."

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, mobile homes, walls, fences, signs, sheds, billboards and poster panels, docks, and/or similar construction types.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent (50%) of the assessed value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

SWIMMING POOL: Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or capable to be used for swimming, bathing, or wading, and permanently installed or constructed either above or below ground.

TAVERN: Any establishment, licensed by the State of New York, that engages in the sale for on premise consumption of alcoholic and non-alcoholic beverage(s).

TELECOMMUNICATIONS FACILITY: Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communications and private radio communications services, and are regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A Telecommunication Facility shall include monopole, guyed, or lattice-work tower(s), as well as antenna(s), switching stations, principal and accessory telecommunication equipment and supporting masts, wires, structures, and buildings.

TEMPORARY USE: An activity or use conducted for a specified limited period of time, not exceeding six months. This term shall include those uses incidental to construction projects, festival tents/refreshments stands, temporary real estate sales offices incidental to a subdivision project, and similar type uses.

TOWNHOUSE: An independent single family dwelling unit which is one (1) of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

USE: The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

WHOLESALE ESTABLISHMENT: A business which is primarily involved in sales to other businesses, either directly or as a broker, rather than to the general public.

WINDMILL: An alternative energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT: The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line. (See also "Setback-Front")

YARD, REAR: An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches. (See also "Setback-Rear")

YARD, SIDE: An open space on the lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills, and other such fixtures and open steps. (See also "Setback-Side")

YARD SALE: The temporary displaying of household items and clothing for sale on a yard, porch or in a barn or garage. This term shall include garage sales, barn sales, porch sales, tag sales and other sales similar in nature.

ZONING CERTIFICATE OF COMPLIANCE: See "Certificate of Compliance."

ZONING PERMIT: A document issued by the Code Enforcement Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this Ordinance.

ARTICLE III

PERMITS AND PROCEDURES

SECTION 300 PERMITS REQUIRED

No use or structure shall be established, erected, nor land developed until a Zoning Permit has been issued by the Code Enforcement Officer, who shall issue such permits in accordance with regulations in the Ordinance.

SECTION 301 ZONING PERMIT TYPES

Under the terms of this Ordinance, the following types of Zoning Permits may be issued:

- A. **Permitted Use.** A zoning permit for a permitted use may be issued by the Code Enforcement Officer on his own authority. The zoning permit may be issued in conjunction with, and administered using the same form as, a building permit.
- B. **Site Plan Approval.** A zoning permit for a permitted use, other than a one or two family dwelling, farm use, or an accessory use associated with a single or two family dwelling or farm use, may be issued by the Code Enforcement Officer after site plan approval from the Planning Board, as more fully described in Article X.
- C. **Special Permit Uses.** A zoning permit for a special permit use may be issued by the Code Enforcement Officer after special permit approval and site plan approval from the Planning Board, after a public hearing, as more fully described in Article IX.
- D. **Zoning Permit After a Request for Variance.** A Zoning Permit for a use or structure which requires a variance may be issued by the Code Enforcement Officer upon order of the Zoning Board of Appeals, after a public hearing, as more fully described in Article VIII.

SECTION 302 APPLICATION PROCEDURE AND REQUIRED INFORMATION

A. Application

Application for a zoning permit shall be made with the Code Enforcement Officer on forms approved by the Town Board. Forms shall be made available at the Offices of the Code Enforcement Officer and the Town Clerk.

B. Information

- 1. All information on the application form shall be completed.
- 2. In addition, two copies of a property map shall be submitted with all applications. The map shall be either:

- a. Sketch Map: A sketch map is required with all applications for a zoning permit for one or two family dwellings, their customary accessory uses, or farm use. The sketch map shall be drawn to scale and show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location, natural water courses, ponds, surface drainage patterns or location of existing or proposed easements; or
 - b. Site Plan: A site plan is required with applications for all other uses. The requirements and procedures for site plan approval are in Article X.
- C. Approval of Water and Sewage Disposal Systems: Evidence of approval of the water supply and the sewage disposal system plans by the Orleans County Health Department or its agent, or design plans signed by a licensed engineer, shall be submitted at the time of application. Applications lacking such information shall not be accepted.
- D. Evidence of Property Ownership or Intent to Purchase. Copies of deeds, titles, purchase agreements, or other proof of ownership or intent to purchase shall be attached to an application before it will be accepted.
- E. Licenses: Any use currently licensed by Federal, State, County or Town Agencies and already operating within the Town shall present evidence of currently valid licenses before any expansion permits are considered.
- F. Fee: The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application. This fee structure shall be filed and posted at the Office of the Town Clerk.

SECTION 303 ZONING PERMIT GRANTED

When all requirements of this Ordinance have been met, the Code Enforcement Officer shall issue a Zoning Permit and return one approved copy of the map to the applicant no later than fifteen (15) days after approval. The Code Enforcement Officer shall file one copy of the approved permit in his office.

SECTION 304 TERMINATION OF PERMIT

- A. Permits issued pursuant to this Article shall expire in twelve (12) months unless the project is completed.

- B. The Code Enforcement Officer may grant an extension for time of completion, with the approval of the Planning Board, and include any conditions or requirements deemed by the Planning Board to be necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained.
- C. If a project is not initiated within six (6) months of the issuance of the permit, the permit issued shall be considered null and void.

SECTION 305 CERTIFICATE OF COMPLIANCE

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance shall have been issued therefore by the Code Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
- B. Failure to obtain a Certificate of Compliance shall be a violation of this Ordinance and punishable as provided by Article VIII.
- C. Within seven (7) days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Code Enforcement Officer stating that such action has been completed. Within fifteen (15) days of the receipt of this letter, the Code Enforcement Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this Ordinance. If the Code Enforcement Officer determines that said building or use complies with the provisions herein, he shall issue a Certificate of Compliance. If it is determined that the provisions specified herein are not fully complied with, the Code Enforcement Officer shall specify the violations and the terms and conditions for remedying these violations. A Certificate of Compliance shall not be issued until such violations are corrected.
- D. No non-conforming building or use shall be maintained, renewed, changed or extended without a Certificate of Compliance having first been issued by the Code Enforcement Officer. The Certificate of Compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance.
- E. The Certificate of Compliance may be issued at the same time, and may be administered using the same form as, the Certificate of Occupancy issued pursuant to the NYS Uniform Fire Prevention and Building Code.

ARTICLE IV

ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

SECTION 400 ESTABLISHMENT OF DISTRICTS

The Town of Barre is hereby divided into zoning districts as hereinafter set forth and as the same may be, from time to time, amended.

AR	Agricultural/ Residential
R-1	Residential
B	General Business
LI	Light Industrial
P.D.	Planned Light Industrial/ Commercial Development
F	Flood Hazard Overlay District

SECTION 401 ZONING MAP

- A. There shall exist only one (1) official zoning map which shall be kept in the Office of the Town Clerk, and it shall bear certification that it is the official zoning map of the Town of Barre and its date of adoption. Said zoning map shall show the boundaries of the zoning districts herein established, and, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- B. Said zoning map shall be on material suitable for reproduction. Copies of this map, which may from time to time be published and sold, would be accurate only as of the date of their printing and shall bear words to that effect.
- C. Changes made in zoning district boundaries, or other matters portrayed on the zoning map under the provisions set forth herein, shall be permanently affixed to the zoning map promptly after an amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this Ordinance, which involves matters portrayed on the zoning map, shall become effective until such change and entry has been made on said zoning map and has been attested to by the Town Clerk.

SECTION 402 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map of the Town of Barre the following rules shall apply:

- A. District boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.
- B. District boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

- C. District boundaries indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said zoning map.
- D. District boundaries indicated as approximately following a stream, lake or other body of water shall be construed to follow the center lines of such stream or other body of water.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- F. Where physical or cultural features on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections A through E above, the Code Enforcement Officer shall request the Zoning Board of Appeals to render its interpretation.

SECTION 403 APPLICATION OF REGULATIONS

The regulations set by this Ordinance shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 - 1. Exceeds the height limitation for any structure within a specified district;
 - 2. Accommodates or houses a greater number of dwelling units than is permitted within a specified zoning district;
 - 3. Occupies a greater percentage of lot area than is permitted by the zoning schedule; or
 - 4. Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Ordinance or the requirements of the New York State Uniform Fire Prevention and Building Code.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in Section 601 and 602.
- D. No yard or lot existing at the time of enactment of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet or exceed the minimum requirements established herein.

**ARTICLE V
DISTRICT REGULATIONS**

SECTION 500 AGRICULTURAL/ RESIDENTIAL DISTRICT (AR)

A. PURPOSE

The purpose of the AR Agricultural/ Residential District is to protect agricultural lands and uses from incompatible uses and development; to maintain an open rural character of the community; to assure compatible types and densities of development; to provide for low density, rural development on lands where public sewers and water service do not exist and are not envisioned in the near future; and to protect the natural environment.

B. PERMITTED USES

1. Single family dwellings, not to exceed one principal structure per lot
2. Agriculture (farming) as defined herein.
3. Storage, packing and sale of field, garden, orchard, nursery, and vineyard crops, but not including agricultural product processing facilities or distribution centers.
4. Roadside Stands, under the following conditions:
 - a. The stand shall be set back not less than thirty (30) feet from the edge of the right-of-way line.
 - b. Sufficient land area shall be provided to accommodate off-street parking for not less than three (3) vehicles on site.
 - c. Such stands (including signs associated with such uses) shall be removed and appropriately stored within ten (10) days of the end of the harvest season.
5. Seasonal dwellings, provided that all applicable provisions of the NYS Uniform Fire Prevention and Building Code are met.

C. PERMITTED ACCESSORY USES

1. One (1) private detached garage or carport with a maximum capacity of eight hundred (800) square feet for the parking of automobiles or storage of property belonging to residents on the premises. Detached garages shall be located to the rear of the front building line of the principal building and may be located in a side yard with a minimum side yard setback of fifteen (15) feet.
2. Customary accessory structures serving residential uses including but not limited to private swimming pools, storage buildings, greenhouses, pet shelters and fireplaces.
3. Customary farm accessory buildings for the storage or packing of products or equipment, but not including agricultural product processing facilities or distribution centers.
4. The keeping, breeding, and raising of farm animals in association with a residential use, subject to the following restrictions:

- a. No stable, similar animal housing or confining areas shall be allowed on lots of less than two (2) acres.
 - b. No structure housing such animals shall be located closer than fifty (50) feet to any street or property line.
 - c. Not more than one (1) adult or fully grown horse, cow, beef cattle, sheep, goat or other four-legged domestic-type farm animal, or combinations thereof, may be kept per acre of land in the residential parcel.
 - d. Not more than a total of any combination of twelve (12) adult or fully grown chickens, ducks, geese or other fowl or birds of any type may be kept per acre of land in the residential parcel.
- 5. Yard sales, provided that not more than three (3) such sales shall occur during one (1) calendar year, and that the duration of such sales do not exceed three (3) consecutive days.
 - 6. Off-street parking, fencing and signs in accordance with the provisions of this Ordinance.
 - 7. Other accessory uses not specified herein may be approved, provided that the Zoning Board of Appeals renders an interpretation indicating that such uses are clearly accessory to the permitted principal use and consistent with the purpose and intent of the zone district and this Ordinance.

**D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE VII)**

- 1. Home Occupation
- 2. Private or commercial airport or airstrip
- 3. Animal Hospital
- 3. Bed and Breakfast Establishment
- 4. Campground
- 5. Cluster residential development
- 6. Conference/ Resort complex
- 7. Essential Services and Utilities
- 8. Excavation and Mining
- 9. Farm Labor Camp
- 10. Farm Markets
- 11. Kennel
- 12. Manufactured Home Park
- 13. Public and Semi-Public Use, including Day Care Center
- 14. Stable or Riding Academy
- 15. Telecommunications Facility
- 16. Two Family Dwelling

E. SPECIFICATIONS

Setback Requirements:

- Front: 75 Feet (measured from right-of-way line)
- Side: 15 Feet
- Rear: 15 Feet

Lot Width: 200 Feet
Minimum Lot Size: 40,000 Square Feet
Building Height: 35 Feet except Agricultural Storage Facilities and Airport Structures.
Maximum Building Coverage: 25%

SECTION 501 R-1 RESIDENTIAL DISTRICT

A. PURPOSE

The purpose of the R-1 Residential District is to provide a stable environment for rural residential development, free from incompatible uses.

B. PERMITTED USES

1. One Family Dwellings
2. Two Family Dwellings
3. Agriculture (farming) as defined herein

C. PERMITTED ACCESSORY USES

All accessory uses permitted in the AR District shall be permitted in the R-1 District.

D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL USE REGULATIONS, ARTICLE VII)

1. Bed and Breakfast Establishment
2. Cluster Residential Development
3. Essential Services and Utilities
4. Home Occupations
5. Manufactured Home Park
6. Public & Semi-Public Uses, including Day Care Centers

E. SPECIFICATIONS

Setback Requirements:

Front: 75 Feet (measured from right-of-way line)
Side: 15 Feet
Rear: 15 Feet

Lot Width: 150 Feet
Height: 35 Feet
Minimum Lot Size: 30,000 Square Feet
Maximum Building Coverage: 30%

SECTION 502 GENERAL BUSINESS DISTRICT (B)

A. PURPOSE

The purpose of the General Business District is to provide for business establishments serving the needs of area residents, especially retail and service businesses, as well as to accommodate residential development.

B. PERMITTED USES

1. One Family Dwelling
2. Two Family Dwelling
3. Agriculture (farming) as defined herein.
4. The storing, packing and sale of field, garden, orchard, nursery, and vineyard crops.
5. Farm Markets
6. Roadside Stands, subject to the requirements of Section 500.B 5
7. Retail business establishments which are clearly of a neighborhood service character such as, but not limited to, the following:
 - a. Stores selling groceries, meats, baked goods, and other such food items.
 - b. Drugstores and variety stores.
 - c. Stationery, tobacco and newspaper stores and confectionery stores.
 - d. Clothing, variety and general merchandise stores.
 - e. Hardware, appliance, radio and television sales and service.
8. Personal service establishments which shall include but not be limited to, the following:
 - a. Barber and beauty shops.
 - b. Shoe repair and fix-it shops.
 - c. Dry cleaning stores and Laundromats.
9. Business and professional offices, including, but not limited to, medical, dental, real estate, and accounting.

10. Assembly halls and theaters, excluding drive-in theaters.
11. Newspaper printing, including incidental job printing.
12. Funeral parlors.
13. Custom shops, including but not limited to printing, electrical, heating, plumbing, or woodworking.
14. Building supply and farm equipment stores.
- 15.. Wholesale establishments provided that all sales activities are conducted in a completely enclosed building.
16. Commercial greenhouse or nursery.
17. Assembling, converting, altering, finishing, cleaning, or any other processing of products, provided that:
 - a. Goods so produced or processed are to be sold at retail, exclusively on the premises;
 - b. Space used for such purposes shall not occupy more than 20 percent of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street;
 - c. Not more than two (2) persons shall be engaged in such production/ processing at any one time.
18. Machine tool sales, rental or service.
19. Commercial storage buildings providing space for rent.
20. Business service establishments, including, but not limited to accounting, computer services and repairs, and consulting.
21. Veterinary animal clinics or offices with interior operations only.
22. Restaurant not serving alcoholic beverages
23. Recreation and amusements facility
24. Bed and breakfast establishment
- 25.. Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

C. PERMITTED ACCESSORY USES

1. All accessory uses permitted in the AR District shall also be permitted in the B District.
2. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
3. Off-street parking, loading and unloading facilities, signs, fences and landscaping subject to the provisions of this Ordinance.
4. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barber shops, hairdressers, gift shops, and other personal service shops for the convenience of guests may be permitted as accessory uses to hotels or motels. With the exception of an identifying sign for the restaurant, no external evidence of such internal commercial activities is permitted.
5. Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

**D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)**

1. Animal Hospital (with outdoor facilities)
2. Drive-in Business
3. Essential Services and Utilities
4. Excavation or Mining
5. Kennel or Animal Hospital (with outdoor runs or other facilities)
6. Manufactured Home Park
7. Motel or Hotel
8. Motor Vehicle, Manufactured Housing, or Boat Sales
9. Motor Vehicle Service Station or Auto Repair Shop
10. Multiple Family Dwelling or Development
11. Public and Semi-Public Buildings or Uses
12. Recreation or Amusement Enterprise
13. Retail Fuel Outlet
114. Restaurants and/or taverns serving alcoholic beverages

E. OTHER PROVISIONS AND REQUIREMENTS

1. Buffer Strip: Commercial structures shall provide a natural buffer strip to be perpetually maintained so as to provide visual screening and separation between commercial and residential uses.
2. Refuse Containers: Commercial structures shall provide a commercial type refuse container on site. Such containers shall be placed on concrete or stone areas and visually screened, and shall provide rodent control.
3. Residential Lot Line: No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any residential district.

4. Off-street parking, loading and unloading facilities shall be subject to the provisions of Section 601 and 602 of this Ordinance.
5. Signs shall be subject to the requirements of Section 600.

F. SPECIFICATIONS

Setback Requirements:

Front:	75 Feet (measured from right-of-way line)
Side:	15 Feet
Rear:	50 Feet
Lot Width:	200 Feet
Height:	35 Feet
Minimum Lot Size:	40,000 Square Feet
Maximum Building Coverage:	35%

SECTION 503 LIGHT INDUSTRIAL DISTRICT (LI)

A. PURPOSE

The purpose of the Light Industrial District is to provide for light manufacturing, assembly and storage type facilities.

B. PERMITTED USES

1. Agriculture
2. Scientific research or experimental development of materials, methods or products including engineering and laboratory research.
3. Administrative, educational and other related activities and facilities in conjunction with a permitted use.
4. Manufacture or assembly of electric, electronic or optical instruments or devices.
5. Manufacturing, assembling, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stone.
6. Agricultural product processing, including manufacturing of food products, pharmaceuticals and the like but not including the production of fish, meat or dairy products, or fermented foods such as sauerkraut, vinegar, or the like, or the rendering of fats and oils.
7. Precision uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.
8. Commercial storage buildings providing space for rent.
9. Warehousing and distribution facilities, including agricultural product distribution centers.

10. Other uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

C. PERMITTED ACCESSORY USES

1. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted use.
2. Off-street parking, loading and unloading facilities and signs, fences and landscaping subject to the provisions of this Ordinance.
3. Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

**D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)**

1. Adult Entertainment Uses
2. Junk Yards, Auto Wrecking, and Dismantling Yards
3. Telecommunications Facility

E. PROVISIONS AND REQUIREMENTS

1. Residential uses shall be prohibited except for a caretaker's residence on-site.
2. All assembly, research, engineering, administration, storage and other related activities shall be conducted wholly within enclosed buildings.
3. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping or other appropriate measures.
4. At no time shall any use result in or cause dissemination of dust, smoke, smog, observable gas, fumes, odors, radiation or other atmospheric pollution, objectionable noise, glare or vibrations or hazard of fire or explosive or any other physical hazard to any adjacent buildings or to any plant growth or any land adjacent to the site.
5. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
6. All uses permitted shall set aside not less than twenty (20) percent of the lot area to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purposes.
7. Each use shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard. Off-street loading facilities shall be subject to the additional provisions of Section 602 of this Ordinance.

8. Industrial structures shall be located so as to be a minimum of seventy-five (75) feet from any non-industrial district. A natural buffer strip shall be placed and maintained so as to provide visual screening and separation between industrial and non-industrial uses.
9. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or thirty (30) feet from any other property line.
10. Signs shall be permitted pursuant to the regulations in Section 600 of this Ordinance.

F. SPECIFICATIONS

Setback Requirements:

Front:	75 Feet (measured from right-of-way line)
Side:	50 Feet
Rear:	50 Feet
Height:	35 Feet
Lot Width:	200 Feet
Minimum Lot Size:	One (1) acre.
Maximum Building Coverage:	35%

G. PROHIBITED USES

1. Acetylene Gas manufacture
2. Oxygen manufacture
3. Celluloid manufacture
4. Disinfectant or insecticide manufacture
5. Asphalt manufacture or refining
6. Coal or tar distillation, including manufacture or treatment
7. Boiler making
8. Steel Furnace manufacture
9. Blooming or rolling mill
10. Soap manufacture
11. Chlorine or Hydrochloric, nitric, picric or sulfuric manufacture
12. Smelting of copper, tin, zinc, lead or iron ores
13. Manufacture of explosives, storage of explosives in bulk
14. Glue, size or gelatin manufacture where the process includes the refining or recovery of products from fish or animal refuse or offal

SECTION 504 P.D. - PLANNED INDUSTRIAL/ COMMERCIAL DEVELOPMENT DISTRICT

A. Purpose

The P.D. - Planned Industrial/ Commercial Development District has been designed to encourage commercial and industrial development which conforms to a coordinated site development plan for a relatively large area. Such development should represent the most efficient and productive use of the land area so zoned. Individual uses permitted in this zone shall be designed and constructed so as not to preclude further industrial or commercial development within the P.D. zoning district.

B. Objectives

1. The proposed industrial and/ or commercial development shall be in harmony with the general purpose, goals and objectives of the Comprehensive Plan and this Ordinance.
2. The proposed development shall comply with all applicable regulations of this Ordinance except as modified by the authority of this Section.
3. The proposed development shall not have a substantial adverse effect upon adjacent properties, utility facilities, traffic conditions and other matters that would affect the public health, safety and general welfare.
4. The proposed development shall be constructed, arranged and operated so as to not interfere with the development and use of neighboring properties.
5. The proposed development shall be adequately served by essential public facilities and services, such as but not limited to sanitary sewers, public water supply, storm water drainage facilities and highway capacity.
6. The proposed development shall make appropriate provisions for the preservation of trees, streams, wetlands, natural topography and geological features and the prevention of soil erosion.

C. General Requirements

1. All industrial and commercial uses permitted in the I - Industrial and B - General Business zoning districts are permitted in this district, except for residential uses.
2. Accessory uses permitted in the commercial and industrial district are permitted as accessory uses in the P.D. District.
3. The minimum area required for a Planned Development shall be twenty (20) contiguous acres of land. However, if an applicant can demonstrate that the characteristics of the property proposed for such use can meet the objectives of this Section, projects with less acreage will be considered.
4. Where an applicant proposes the use of a portion of the site as common property, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities. For the purpose of this Section, the term "common property" shall be defined as a parcel of land, together with improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the Planned Development.
5. Individual buildings within a Planned Development shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development.
6. Utility lines providing electric, telephone, television or other services shall be installed underground.

D. Application Procedures

Approval of a Planned Development shall be made by the Town Board, following review and recommendation from the Planning Board.

1. Planning Board Review

The applicant shall meet with the Planning Board to describe the intent of the proposed development, to discuss design and development objectives and to submit a concept plan which depicts the manner in which the proposed project is to be developed. At this meeting, the applicant shall describe how the proposed development would be integrated with neighboring land uses, community features and public facilities and services. The concept plan shall be to scale and shall include the following information:

- a. The principal physical characteristics of the site, including an analysis of the soils and sub-soils and the location of major stands of trees, streams, flood plains and rock outcropping.
- b. The topography of the site with contour intervals of not more than five (5) feet of elevation; areas of the site where grades exceed three percent (3%); portions of the site with a moderate to high susceptibility to erosion, flooding or ponding; and, a preliminary grading plan with five-foot contour intervals.
- c. An analysis of the relationship of the site to the surrounding community, including significant parcels of vacant land and the character of nearby built-up areas.
- d. A conceptual site development plan which presents: a proposed lotting pattern, including the number and general sizing of individual lots; estimates of vehicular traffic volumes to be generated; a suggested internal street system, suggested sidewalks and circulation flows; a description of how the site will be tied to the existing street and pedestrian network; estimated demands for water and sewer services; a suggested layout of water, sanitary sewer and storm sewer facilities with proposed points of interconnection to existing systems; and, the proposed storm water drainage system and its relation to existing systems.
- e. A generalized description of how the site is to be buffered from adjacent areas. This shall include the retention of existing trees as well as new plantings to accomplish this objective.
- f. A description of the manner in which areas that are not proposed to become publicly owned are to be maintained, including but not limited to open space, streets and lighting.
- g. If the development is expected to be phased, a general description of the phasing plan, including the anticipated time frames for development.
- h. A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.

- i. A written statement by the applicant setting forth the reasons why, in his opinion, the proposed rezoning would be advantageous to and in the best interests of the Town of Barre.
- j. An Environmental Assessment Form (EAF) or a Generic Draft Environmental Impact Statement (DEIS) to comply with the State Environmental Quality Review Act (SEQR).
- k. Any other information or documentation which the applicant deems necessary to support his application.

2. Planning Board Report

Within sixty (60) days of the receipt of a complete application, the Planning Board shall review the concept plan and supporting documents and provide a written report to the Town Board. The Planning Board shall hold a public hearing on the concept plan to assist it in the preparation of its report. If no report has been rendered within the sixty (60) day period, unless such time limit has been extended by formal action of the Planning Board, the applicant may proceed on the basis that the report is favorable. The Town Board shall be so informed on this matter.

- a. A favorable report from the Planning Board shall be based on the following findings which shall be included as part of the report:
 - i) The proposal implements the goals and policies of the Comprehensive Plan of the Town of Barre.
 - ii) The concept plan meets all of the requirements of this Ordinance.
 - iii) The proposal is conceptually sound in that it meets a community need and conforms to accepted design standards for the proposed roadway system, land use configuration, open space and drainage systems.
 - iv) Adequate services and utilities are available or proposed to be made available in order to properly serve the proposed development.
- b. An unfavorable report shall state clearly the reasons therefore and, if appropriate, point out to the applicant the conditions under which a favorable report may be issued.

3. Town Board Consideration

Upon receipt of a report from the Planning Board, the Town Board shall consider the application for the Planned Development and may establish a date for and conduct a public hearing for the site plan as provided by Town Law.

4. Final Site Plan Approval

In the approval of the Site Plan, the Town Board may establish a maximum aggregate gross floor area for all buildings in the District and may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its resolution additional requirements for the applicant to meet. Such requirements may include, but shall not be limited to: visual and acoustical screening; the order of construction and/or occupancy; vehicular and pedestrian circulation systems; protection of natural resources; and, other physical or community needs.

SECTION 505 F - FLOOD HAZARD OVERLAY ZONE

- A. The Zoning Map indicates approximate boundaries of the flood hazard overlay zone. The exact legal boundaries of the flood hazard area is depicted on the official FIRM Maps and Flood Boundary-Flood way Map prepared by the Federal Emergency Management Agency (FEMA).
- B. Such areas shall be subject to the provisions of all applicable Town of Barre Local Laws in addition to the use regulations and other provisions of this Zoning Ordinance.

ARTICLE VI

REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 600 SIGNS

A. Purpose

The purpose of these regulations is to provide comprehensive time, place and manner restrictions on sign age including, but not limited to, controls on size, height, quantity, location, spacing, shape, lighting, motion, design and appearance for the purpose of promoting community aesthetics, traffic safety, economic development and the protection of property values.

B. Sign Permit Required

A Sign Permit is required for all outdoor advertising signs, subject to the following standards:

1. General advertising signs related to the permitted use of the premises are allowed, including secondary advertisement of products or services.
2. Brand name sponsored signs are permitted provided that the brand name, logo, trademark (or the combination thereof) shall not exceed 25% (twenty-five percent) of the square footage of the sign.
3. Signs shall be informative, enhance the rural character of the community, and shall be consistent with the Town of Barre Comprehensive Plan. Signs that are manufactured from wood, or wood simulated products, or stone, or stone simulated products (with the appearance of natural wood or stone) are recommended.

C. Exempt Signs

The following types of signs may be erected without a permit in any zoning district:

1. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by government agencies, religious or non-profit organizations. Such signs shall not exceed six (6) square feet in area.
2. Flags and insignia of any government, except when displayed in connection with commercial promotion.
3. Any sign placed by any governmental agency for public purposes, or any non-advertising sign identifying underground utility lines.
4. On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or non-illuminated, not exceeding two (2) square feet per face and six (6) feet in height. Business names and personal names shall be allowed, excluding advertising messages.

5. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
6. Number and name plate identifying residents and/or property addresses, not exceeding two (2) square feet per face.
7. Private-owner merchandise sale signs for garage sales and auctions, not exceeding four (4) square feet for a period not to exceed seven (7) days.
8. Temporary lighted or unlighted signs erected by and for non-profit organizations such as churches, American Legion, Boy Scouts, Girl Scouts, political organizations, or military reserve associates which advertise suppers, banquets, benefits, fund raising sales, and similar functions may be erected for a period of forty (40) days without a permit in any district.
9. Temporary non-illuminated "For Sale," "For Rent", real estate signs and signs of similar nature, concerning premises upon which the sign is located. Such sign shall not exceed twenty-four (24) square feet in area, and shall be set back at least ten (10) feet from all property lines. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises or property.
10. Holiday decorations, including lighting, are exempt from the provisions of this Ordinance and may be displayed in any district without a permit.
11. Integral graphics or attached price signs on gasoline pumps at gasoline stations.
12. Directional signs for meetings, conventions and other assemblies.
13. One sign, not exceeding sixteen (16) square feet in area, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress.
14. "Non-commercial speech" signs, also known as "free speech" signs, which express an opinion or a statement unrelated to a business venture, are subject to the following conditions:
 - a. The maximum number of non-commercial speech signs per lot shall be two (2) excepting posted or preserve signs erected pursuant to the Environmental Conservation Law of the State of New York.
 - b. Such signs shall not exceed a total of twenty (20) square feet in area for all signs on a single lot.
 - c. Freestanding non-commercial speech signs shall not exceed six (6) feet in height above grade level.
 - d. Non-commercial speech signs shall not be illuminated, except indirectly.
 - e. Political candidacy signs shall be removed within seven days following the election.

D. General Sign Standards

All signs, including outdoor advertising signs and exempt signs, shall comply with the following standards:

1. No sign shall consist of lights which flash, or move, or appear to move.
2. No sign shall be higher than the principal building to which it is accessory.
3. No sign shall project into a public right-of-way, be closer than thirty (30) feet from any street line nor closer than five feet to any other property line, create a traffic hazard, be unduly distracting to motorists and pedestrians, or reduce the effectiveness of signs needed to direct the public.
4. No sign shall project on a public utility pole or traffic control structure.
5. No advertising sign shall be placed on premises other than the site of the business advertised.
6. The total number of permitted signs on a single lot shall not exceed two (2), of which only one (1) may be freestanding.
7. The total cumulative area of all signs permitted on a single lot shall not exceed:
(a) thirty-two (32) square feet; or (b) an amount calculated at the rate of one (1) square foot of sign area per lineal foot of building front, plus one (1) square foot of sign area for every four (4) lineal feet setback of the principal building on the property, whichever is greater, but in no case shall the total sign area allowed exceed sixty-four (64) square feet.

E. Construction Standards for all Signs

1. All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not swing or move in any manner.
2. All signs, sign finishes, supports and electrical work shall be kept clean and painted, and free from all hazards, such as but not limited to faulty wiring and loose supports, guys and anchors.
3. All projecting, freestanding or wall mounted signs shall employ acceptable, safe materials.
4. All signs shall be painted and/or fabricated in accordance with generally accepted standards.
5. No freestanding sign shall be more than twenty (20) feet in height above finished grade. Such height shall be measured vertically from the established grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures.

F. Non-Conforming Signs

All existing signs that are legal at the time of the enactment of this Ordinance shall be allowed to remain as long as they are properly maintained and their use remains current. Replacement of any existing sign for any cause shall be in accordance with the more restrictive provisions of this Ordinance.

G. Procedures for Obtaining a Sign Permit

1. Except as otherwise provided, no person shall erect, alter or relocate any sign without first obtaining a permit from the Code Enforcement Officer. Subsequent to this initial application, no permit shall be required for a sign to be repainted, repaired or have its message changed.

2. Application Procedure

Applications shall be made to the Code Enforcement Officer on the form prescribed and provided by the Town of Barre, accompanied by the required fee, and shall contain the following information:

a. Name, address and telephone number of:

- i) applicant;
- ii) owner of the property; and,
- iii) contractor installing the sign.

b. Location of the building, structure or land upon which the sign now exists or is to be erected.

c. If a new sign is to be erected, elevation and plan drawings to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall cover the following:

- i) location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines;
- ii) the method of illumination, if any, and the position of lighting or other extraneous devices;
- iii) graphic design including symbols, letters, materials and colors; and,
- iv) the visual message, text, copy or content of the sign.

d. Written consent, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.

3. Permit

a. Upon the filing of a completed application for a sign permit and the payment of the required fee, the Code Enforcement Officer shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this Article, the Code Enforcement Officer shall then, within five (5) days of receiving the application, issue a permit for the erection of the proposed sign, or for alterations of an existing sign. The issuance of the permit shall not excuse the applicant from conforming to the other laws, rules and regulations of the Town of Barre.

- b. If the erection of the sign authorized under any such permit has not commenced within six (6) months from the date of issuance, the permit shall become null and void, but may be renewed within thirty (30) days prior to the expiration, for good cause shown, for an additional six (6) months, upon payment of one-half (1/2) of the original fee.
4. Permit Fee - Fees for the sign permits shall be fixed by the Town Board and listed in the fee schedule.

H. Removal of Temporary Signs

Temporary signs that are not removed by the owner within the time specified herein shall be removed by the Code Enforcement Officer, after ten (10) days written notice to remove such sign and after the failure of the owner to remove such sign. The cost of removal by the Code Enforcement Officer shall be charged to the owner of the premises where the temporary sign was displayed.

SECTION 601 PARKING

In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this Section. Existing buildings or uses shall not be subject to the requirements of this Section, unless said building shall be enlarged or the use of said building or land is changed. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged or to accommodate the needs of the new use.

A. Design Requirements

1. All uses shall provide adequate off-street parking for all vehicles parked during typical peak periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.
2. A parking space shall be not less than nine by twenty (9 x 20) feet, exclusive of access ways and driveways. Single family residences need not exclude driveway area.
3. Off-street parking areas with a capacity for more than twenty (20) vehicles shall delineate fire lanes and post "no parking" markers.
4. Any off-street parking area with at least twenty (20) off-street parking spaces shall designate a minimum of five percent (5%) of those spaces, up to a maximum of ten (10) spaces, as only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least fourteen (14) feet in width and twenty (20) feet in depth.
5. All off-street parking space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
6. All parking areas, passageways and driveways (except where provided in connection with one and two family dwellings, or farm residences and buildings) shall be adequately drained and surfaced with a dustless, durable, all weather surface, subject to approval of the Town Highway Superintendent.

7. Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.
8. The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots may be approved by the Planning Board during Site Plan Review, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.
9. No driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two streets or within twenty (20) feet of any side lot line provided that sufficient distance will always remain for all required radii for said driveway. The distance from the driveway to the intersection shall be measured by extending the curb line of the intersecting street until it intersects the curb line of the driveway in question, extending such driveway curblines if necessary,. In addition, a minimum distance of twenty (20) feet shall be maintained between two driveways located on any one frontage.
10. Except where otherwise specified in this Ordinance, off-street parking areas may be located in any yard space for non-residential uses but shall not be located closer than thirty (30) feet to the right-of-way line of all streets and no closer than ten (10) feet to any other property line.

B. Location of Off-Street Parking Facilities

Off-street parking facilities shall be located as herein-after specified. Where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking facility to the nearest public entrance of the building that such facility is required to serve.

1. For one and two family dwellings On the same lot with the
and for all types of residential building they are required to serve.
structures:
2. For multiple family dwellings: Not more than two hundred (200) feet from the building
they are required to serve.
3. For other uses: Not more than five hundred (500) feet from the building
they are required to serve.

C. Screening and Landscaping

1. Off-street parking areas for more than five (5) vehicles shall be effectively screened on the rear and side yards by a fence of acceptable design, unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence, wall or hedge shall not be less than six (6) feet in height and shall be maintained in good condition.
2. Except where otherwise specified in this Ordinance, when a parking area for five (5) or more vehicles is within or abuts a residential district, a planted buffer area not less than ten (10) feet in depth shall be provided in addition to the fence or wall specified in paragraph (1) above. Landscaping utilized to provide this buffer shall not be less than four (4) feet in height at the time of planting and spaced not more than three (3) feet apart.

D. Lighting

1. All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one and two family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.
2. Any lights used to illuminate an off-street parking area shall be so arranged as to direct light away from all adjoining property and public or private roadways.

E. Units of Measurement

1. In churches and other places of assembly in which patrons or spectators occupy benches, bleachers, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.
2. When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction of one-quarter (0.25) or more shall require one (1) parking space.

F. Mixed Occupancies and Uses Not Specified

In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the Town Board. Off-street parking facilities for one (1) use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.

G. Joint Use

The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

H. Minimum Parking Standards

1. One parking space is required for every three seats in a public meeting place.
2. One parking space is required for each employee on the maximum working shift in an industrial or light industrial establishment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
3. One parking space is required for every two hundred (200) square feet of gross floor area in business and professional offices.
4. One parking space is required for every one hundred (100) square feet of gross floor area in supermarkets and self service food stores.

SECTION 602 OFF-STREET LOADING

- A. For every building, structure or part thereof having more than four thousand (4,000) square feet of gross building area erected and occupied for commerce and industry as well as other uses requiring the receipt and distribution of materials and merchandise by vehicles, adequate space for loading and unloading services shall be provided and permanently maintained in order to avoid undue interference with the public use of streets, alleys, or parking areas.
- B. Every building, structure or addition thereto having a use which complies with the above definition shall be provided with at least one (1) truck standing, loading and unloading space on the premises not less than twelve (12) feet in width, fifty-five (55) feet in length, and fourteen (14) feet in height. One (1) additional truck space of these dimensions shall be provided for every additional twenty thousand (20,000) square feet, or fraction thereof, of gross area in the building.

SECTION 603 ACCESS CONTROL

In order to encourage the sound development of street frontage, the following special regulations shall apply to all non-residential buildings and uses:

- A. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than two (2) points of access.
- B. The use of common access points by two or more permitted uses shall be encouraged by the Town Board in order to reduce the number and closeness of access points along the streets and to encourage the fronting of significant traffic generating uses upon a parallel access street and not directly upon a primary road.
- C. Access points for industrial uses shall not be less than twenty-four (24) feet nor more than forty (40) feet in width. All other access points shall not be less than twenty (20) feet nor more than thirty (30) feet in width.
- D. All access ways shall meet all applicable standards and requirements of the New York State Department of Transportation, Orleans County Highway Department, and Town of Barre Highway Superintendent.

SECTION 604 FENCES

- A. Fences may be erected, altered or reconstructed to a maximum height of eight (8) feet for residential uses and ten (10) feet for non-residential uses.
- B. Fences may be substituted for lot line landscaping during Site Plan Review, at the discretion of the Planning Board.
- C. No fence shall cause obstruction of vision at street intersections.
- D. Farm fencing ten (10) feet in height or shorter shall be exempt from these provisions.

- E. Any fence erected along a lot line shall be erected wholly on the property of the owner and neither the fence itself nor any supporting accessory components thereof shall encroach upon the adjoining properties.
- F. A finished side of any fencing shall front the neighboring properties.

SECTION 605 RECREATIONAL VEHICLES

- A. Recreational vehicles shall not be occupied outside of an approved campground for more than seventy-two (72) hours on any basis, except with the consent of the private landowner. A temporary use permit may be granted by the CEO for single recreational vehicles to be occupied outside of approved campgrounds for a period not to exceed two weeks in duration.
- B. No more than two (2) recreational vehicles may be parked on any residential property at the same time.
- C. Recreational vehicles shall not be placed in the front yard of land upon which there is a dwelling.
- D. Placement of occupied recreational vehicles shall be in accordance with the setbacks required for principal buildings in the respective zone of the property.
- E. The recreational vehicle shall either have self contained sanitation or be connected to adequate sanitation facilities.

SECTION 606 NON-CONFORMING USES, LOTS AND STRUCTURES

Lots, structures, uses of land, and characteristics of uses which lawfully existed at the time of the enactment of this Ordinance and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions:

A. Intent

It is the intent of this Ordinance to permit non-conforming uses to continue until they are removed, but not to encourage their survival.

B. General Regulations

1. A non-conforming lot shall not be further reduced in size.
2. A non-conforming building shall not be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.
3. A non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this Ordinance.
4. A non-conforming use may be changed into a conforming use. When a non-conforming use is changed to conform to the requirements of this Ordinance, the use of the building or tract of land shall not be changed again except in accordance with these regulations.

5. Where such non-conforming use is upon the land itself and not enclosed within a structure, or where such use involves the removal of soil, minerals or the excavation of gravel or rock or other material, such use may be continued upon the land being so used at the time of the adoption hereof. Any such non-conforming use of the land may be extended or expanded to include any part of the plot or parcel of land now being used or held in reserve for future use, provided such enlargement does not involve the use of any lot excavation rights which were acquired after the effective date of this Ordinance. However, such extension or expansion of such non-conforming use shall comply with the setback and fencing requirements of this Ordinance.
6. Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

C. Restoration and Alterations

1. A non-conforming structure damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its assessed value, based upon the State Board of Equalization and Assessment rates, shall not be repaired or rebuilt except in conformity with the requirements of these regulations; except residential property owners may rebuild a home, on the same foundation area, provided that:
 - a) The property owner provides the Code Enforcement Officer an instrument survey demonstrating that the foundation lies totally within the property boundaries.
 - b) The owner provides evidence of applicable County Health Department approval for the new construction.
 - c) The new construction shall be in compliance with all other applicable laws and regulations.
2. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any wall or roof which has been declared unsafe by the Code Enforcement Officer.
3. Normal maintenance repairs and incidental alteration of a building or other structure containing a non-conforming use shall be permitted, provided it does not extend the area or volume of space occupied by the non-conforming use.
4. Any building which is non-conforming due to insufficient yard distances or lot area shall not be considered a non-conforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this Ordinance.

D. Discontinuance

1. In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Ordinance.
2. Such discontinuance of the active and continuous operation of such non-conforming use, or part or portion thereof, for such period of one (1) year, is hereby construed and

considered to be an abandonment of such non-conforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations.

3. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such non-conforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to re-establish or continue such non-conforming use shall thereupon terminate.

E. Existing Undersized Lots of Record

1. Any lot of record held in single and separate ownership prior to the adoption of this Ordinance and whose area and/or width and/or depth are less than the minimum requirements specified herein for the district, may be considered as complying with this Ordinance and no variance therefore shall be required provided that:
 - a. Such lots do not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for the district;
 - b. The minimum lot size of land for such non-conforming lot is at least seventy-five by one-hundred fifty (75 x 150) feet.
2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

SECTION 607 FLAG LOTS

- A. Flag lots may be permitted in any district, if said lots have a width of at least twenty (20) feet at the street line. The access portion of a flag lot shall have a minimum width of twenty (20) feet.
- B. The area in the access portion of the flag lot shall not be used in calculating lot size.
- C. The front setback distance shall be measured from that lot line of the main part of the flag lot which is closest to the road or highway providing access.

SECTION 608 PINBALL AND VIDEO GAME ARCADES

- A. Pinball and video games arcades shall not be permitted as home occupations.
- B. Arcades shall be closed between the hours of 12:00 midnight and 8:00 a.m.
- C. No one under the age of sixteen (16) shall be permitted in an arcade while school is in session.
- D. An owner or responsible person over the age of eighteen (18) shall be on the premises during all hours of operations.

SECTION 609 ALTERNATIVE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property with a radius at least equal to the height of the tower.
- B. All energy collection/storage facilities and appurtenant electrical equipment shall cause no undue interference or noise, or glare.
- C. Windmill blades shall clear the ground at their lowest point by at least twenty (20) feet.
- D. Height Exemption: The height limitations of this Ordinance shall not apply to wind energy towers or solar collectors provided that such structures are erected only to such height as is necessary to accomplish the purpose for which they are intended, and that such structures do not obstruct solar access to neighboring properties.

SECTION 610 HABITATION, SIZE AND WIDTH OF DWELLINGS

- A. All residential habitation shall be in residential dwellings as defined in this Ordinance.
- B. No cellar sited independently of a structure shall be used exclusively as a dwelling.
- C. The minimum gross habitable floor area of any single family dwelling shall not be less than nine hundred (900) square feet.
- D. The minimum width of a dwelling, at its narrowest dimension, not including porches or patios, shall be twenty (20) feet.
- E. The roof shall have a minimum nominal 3/12 pitch, and shall utilize a type of shingle commonly used in standard residential construction.
- F. The exterior siding shall consist of vinyl or aluminum lap siding, wood, Masonic, or other materials similar to the exterior siding commonly used in standard residential construction.
- G. Permanent landing and steps and/or ramps with handrails are required at each exterior doorway. The structure must include steps and/or ramps which lead to the ground level.
- H. The construction and installation of all structures, including seasonal dwellings, and appurtenant utilities shall conform to provisions of the NYS Uniform Fire Prevention and Building Code and all other applicable standards.

SECTION 611 PROVISIONS FOR MANUFACTURED HOMES ON INDIVIDUAL LOTS

The following provisions apply to manufactured homes located on individual lots in residential areas, in addition to the requirements in Section 610 above.

- A. All towing devices, wheels, axles, and hitches shall be removed.

- B. The manufactured home shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to the site-built housing in adjacent or nearby locations.
- C. The home shall be permanently installed in accordance with the Manufacturer's Installation Manual. In the event that the Manufacturer's Installation Manual is not provided, the home must be installed according to ANSI A225.1 (1994), Manufactured Home Minimum Installation Standards. In addition, all applicable provisions of the NYS Uniform Fire Prevention and Building Code shall apply.
- D. The home must be built to the standards of the H.U.D. code or New York State Uniform Fire Prevention and Building Code, as applicable. The appropriate code sticker shall be on display inside the home.
- E. The home shall be placed upon a frost free concrete perimeter foundation, constructed in accordance with New York State codes. Such foundation shall carry more than one-half of the weight of the home on the perimeter part of the foundation.
- F. Excluding patios, porches and carports, no structure may be hereafter attached to any existing manufactured home, unless the manufactured home is already supported by a concrete perimeter foundation. Such structure shall also be supported by a concrete perimeter foundation.
- G. The anchoring systems for all Manufactured Homes must meet the requirements of the N.Y.S. building code and must be attached to a concrete frost free foundation for that home. Any deviation from these requirements must be supported by specifications and drawings stamped by a New York State professional engineer.

SECTION 612 STRIPPING OF TOP SOIL

The stripping and sale of topsoil shall not be allowed, except in conjunction with a permitted mining or excavation operation, or in the course of construction of any permitted structure. Excavations for the sole purpose of sale of top soil shall not be permitted.

SECTION 613 SWIMMING POOLS

Private swimming pools shall be permitted in any Residential District provided that there is an existing residence on said lot and the following regulations are complied with:

A. Setbacks

1. Outdoor swimming pools shall be located in the rear or side yards and shall conform to the minimum setback requirements for a structure in the district. Aprons and decks which are accessory to a pool shall not be within the minimum setback area specified in the Schedule for accessory uses.
2. No swimming pool shall be closer to the street or front lot line than the front of the building or structure to which the pool is an accessory use.

B. Drainage

No permit shall be issued for such pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with the property of others, with public highways or area drainage facilities.

C. Water Supply

No permit shall be issued for such pool unless the applicant can demonstrate that there is sufficient water supply to accommodate such pool without detriment to normal water consumption requirements and that all proposed water connections are proper and adequate.

D. Permits

Zoning permits shall be required for all swimming pools having an area greater than one hundred (100) square feet or a depth greater than eighteen (18) inches regardless of whether the pool is above or below ground.

E. Fences and gates shall be required, pursuant to the requirements of the NYS Uniform Fire Prevention and Building Code.

F. Ladders on all above ground pools shall be retractable or capable of being locked during all times the owner or occupant of the premises is not present at such pool.

G. This section does not apply to farm ponds or other natural or artificial made bodies of water located in residential areas.

SECTION 614 SATELLITE DISH ANTENNAE

This section is intended to provide the minimum level of control necessary to accomplish the health, safety, and aesthetic objectives of the town.

A. Antennae smaller than one meter in diameter shall not be subject to these regulations.

B. All parabolic antennae larger than one meter in diameter shall be located on the ground at natural grade only and shall not be installed on or above any buildings.

C. All parabolic antennae larger than one meter in diameter shall be located in rear or side yards, except they may be placed in a front yard if a 200 foot setback from the front lot line can be obtained.

SECTION 615 CLEAR VIEW OF INTERSECTING STREETS

No obstruction to view in excess of four (4) feet in height, measured perpendicular from the street grade, shall be maintained on any premises within the angle formed by intersecting streets within the distance of seventy-five (75) feet measured along the center lines of each street from the intersection thereof. Such a clear sight triangle shall be maintained in order to ensure visibility of traffic approaching the intersection.

ARTICLE VII

SPECIAL PERMIT CRITERIA

SECTION 700 GENERAL PROVISIONS

The uses specified in this Article are hereby declared to possess unique characteristics requiring that each proposal for any such use shall be considered by the Town Planning Board as an individual case. Upon application, special use permits may be approved by the Town Planning Board and issued by the Code Enforcement Officer in accordance with the administrative procedures set forth in this Ordinance and only after it has found that each and all of the following standards have been met:

- A. The proposed special use is consistent with the general intent of the Town's Comprehensive Plan and with each of the specific purposes set forth in this Ordinance.
- B. The location, size and use of the structures involved, nature and intensity of the operations involved and size and layout of the site in relation to the proposed special use are such that it will be compatible with the orderly development of the zoning district.
- C. Operation of the proposed special use is no more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use.
- D. The proposed special use satisfies each and all standards and conditions specified for such special use by the relevant provisions of this Article.
- E. The Planning Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the Town's natural resource base and the value of property.
- F. The Code Enforcement Officer shall make an on-site visit to each property authorized as a special use not less than one (1) time each year. The purpose of said site visit is to insure that the use is being operated in accord with the conditions specified by the Planning Board. If the Code Enforcement Officer shall determine that a violation of this Ordinance or the conditions imposed by the Planning Board exists, the owner and, if applicable, operator of such special use shall be notified in writing of the violation. If such violation continues to exist fifteen (15) days following such notification, or if three violations occur within a consecutive twelve (12) month period, the Certificate of Occupancy and/or Certificate of Compliance shall be null and void. A new special use permit application shall be required to be submitted and approved prior to the re-establishment of said use.
- G. No site preparation or construction shall commence nor shall existing structures be occupied for any special permit use until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

SECTION 701 AIRPORTS

The Town Planning Board may approve a special use permit for private or commercial airports or airstrips in the AR Agricultural/ Residential District provided the following standards and provisions are maintained:

- A. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special use permits outlined in Article IX, the following statements and information:
1. Name and address of the proponent.
 2. Classification of the proposed airport, such as commercial or restricted.
 3. Number and type of aircraft expected to be based at the airport initially and within five years.
 4. Whether an instrument approach procedure will be offered.
 5. Statement as to the anticipated number of daily operations.
 6. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
 7. A copy of the New York State Commissioner of Transportation's determination that the airport is in compliance with the provisions of Section 249 of the New York State Business law.
 8. A site plan of the airport which includes the following in addition to the requirements listed in Article X:
 - a) Scale no smaller than one inch equals one hundred feet (1" = 100').
 - b) Location of all existing and proposed structures.
 - c) Alignment of existing and/or proposed runways shown in their exact location.
 - d) Location of aircraft parking and tie-down areas.
 - e) Provision for vehicular access and off-street parking.
 - g) Provisions for sanitary waste disposal and water supply, if applicable.
 - f) Location and method of all fuel storage facilities.

9. An area map at a scale of no less than one inch equals five hundred feet (1" = 500') showing:
 - a) Distances to power lines, or other possible obstructions, within two thousand (2,000) feet of the ends of runways shall be accurately plotted.
 - b) Properties within five hundred (500) feet shall be plotted and owners identified by name.
- B. The Planning Board may, at its discretion, exclude from the requirements of paragraph A.8. above, any private airport established, constructed or maintained by an individual on his property for his personal or hobby use; provided, however, that the following conditions are met:
 1. The average number of hours that the airport is in use each week does not exceed twelve hours.
 2. The individual owns no more than three planes, none of which is designed to accommodate more than six persons, including the pilot.
 3. The airport is not utilized for any industrial or commercial purposes.
 4. The Planning Board may, at its discretion, require the applicant to submit proof that the requirements of Section 249 of the General Business Law are otherwise complied with, depending on the proximity of the proposed airport to highways and other airports.
- C. The Planning Board, in considering a request for a special use permit or the extension of a permit to operate an airstrip, may impose any conditions it deems necessary to protect the health, safety and public welfare of the Town.

SECTION 702 ANIMAL HOSPITAL

The Planning Board may approve a special permit for an animal hospital in the AR Agricultural/Residential District, or for an animal hospital with outdoor runs in the B General Business District, provided that the following standards and provisions are maintained:

- A. Minimum lot size shall be two (2) acres.
- B. Exercise pens and runways shall not be permitted within one hundred (100) feet of any lot line.
- C. All animal hospital facilities shall be maintained in enclosed structures which shall be of soundproof construction and so maintained as to produce no dust or odors at the property line.
- D. Hours of operation (those hours when dogs are brought to and from the establishment and when dogs are allowed out of cages) shall be limited to 7:00 a.m. to 8:00 p.m.

SECTION 703 BED AND BREAKFAST ESTABLISHMENT

The Planning Board may approve the use of a residential structure for a tourist home/bed and breakfast establishment in the AR, R-1 or B district provided that the following standards and provisions are maintained:

- A. The building proposed for occupancy as a bed and breakfast establishment shall contain no more than four lodging rooms for hire.
- B. The operator of the bed and breakfast establishment shall reside on the premises.
- C. The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations.
- D. Outbuildings detached from the principal dwellings shall not be used for the purpose of a bed and breakfast establishment.
- E. A minimum of one (1) off-street parking space shall be provided for each rental unit, in addition to the two (2) spaces required for a single family dwelling. No such parking space shall be located in the front yard area and each space shall not be less than nine by twenty (9x20) feet.
- F. The dwelling may display a sign not to exceed two by two (2x2) feet in size.
- G. No bed and breakfast establishment shall be permitted where access is provided by a shared driveway.
- H. No bed and breakfast establishment shall be permitted in an individual mobile home or mobile home park.
- I. Each rental unit in a bed and breakfast establishment shall maintain a working smoke detector.
- J. Such uses shall comply in full with the Orleans County Sanitary Code and the New York State Uniform Fire Prevention and Building Code.

SECTION 704 CAMPING GROUNDS

The Planning Board may approve a special use permit for camping grounds in the Agricultural/ Residential (AR) District provided that the following standards and provisions are maintained:

- A. Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. No permanent external appurtenances such as carports, cabanas or patios may be attached to any travel trailer or other vehicular accommodation parked in a camp ground. The removal of wheels and placement of a unit on a permanent frost-free foundation in a camping ground is prohibited.
- B. Minimum site area: Ten (10) acres.
- C. Minimum sizes for individual campsites: twenty-five (25) feet by eighty (80) feet to accommodate areas with travel trailers and campers; and, twenty-five (25) feet by fifty (50) feet for areas to be occupied exclusively with tents.

- D. Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
 - E. A camping ground shall be so located that no entrance or exits from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street.
 - F. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. Natural vegetation shall be retained wherever possible. The site shall not be exposed to objectionable smoke, noise, odors, or to other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
 - G. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions.
 - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 - 2. Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
 - 3. The structures housing such facilities shall not be directly accessible from any public street, and shall only be accessible from a street within the camping ground.
 - H. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.
 - I. Streets in camping grounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirement:

One Way with no parking on either side:	12 feet
One Way with parking on one side:	24 feet
Two Way with no parking on either side:	24 feet
Two Way with parking on one side:	36 feet
Two Way with parking on both sides:	48 feet.
- All roadways and public parking areas shall either be paved or dust treated.
- J. Recreation facilities. A minimum of eight percent (8%) of the gross site area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.

- K. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Road curbs shall have a minimum radius of fifty (50) feet and shall be designed for "Drive-thru" campsite parking.
- L. An adequate lighting system shall be provided for the camping ground. Pedestrian walkways shall be provided to lead to all parking areas, restrooms or other service buildings. All walkways shall have adequate lighting.
- M. All utilities shall be underground.
- N. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. No camp site shall be situated further than one hundred (100) feet from a garbage receptacle. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- O. All applicable sanitation standards promulgated by the State of New York, County of Orleans, or Town of Barre shall be met.
- P. Setbacks. Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes, and the motor vehicles propelling or carrying the same may be located not closer than twenty-five (25) feet to any side or rear lot line nor closer than sixty (60) feet to any front lot line.
- Q. Campsites and buildings shall be set back not less than fifty (50) feet from any stream which carries water more than six (6) weeks per year.

SECTION 705 CLUSTER RESIDENTIAL DEVELOPMENTS

The Planning Board may approve a special use permit for cluster residential developments of one-family dwellings in the AR Agricultural/ Residential Districts and in the R-1 Residential District provided that the following standards and provisions are maintained:

- A. A site development plan shall be submitted in conformance with the requirements of Article X of this Ordinance.
- B. The minimum tract size shall be fifteen (15) acres.
- C. The lot size, yard, area and height requirements shall be established on an individual case basis which reflects the unique conditions of each site proposed for development, the potential impact on adjacent properties and to insure consistency with the Town Comprehensive Plan.
- D. The number of lots or units (density of development) in a cluster plan shall not exceed that which could be created under a conventional development plan for the same tract of land.
- E. The developers shall set aside an area of not less than twenty (20) percent of the gross acreage of the tract to be devoted exclusively to permanent recreation areas or open space.

- F. All recreation or open space areas shall, in the opinion of the Planning Board, be suitable for such use. The ownership and future maintenance of such recreation areas shall be subject to the approval of the Town Board or offered for dedication to the Town.
- G. In determining the overall density to be allowed for a residential site, all areas of the site will be included.

SECTION 706 CONFERENCE/ RESORT COMPLEX

The Planning Board may approve a special use permit for a conference/ resort complex in the AR Agricultural/ Residential District provided that the following standards and provisions are maintained:

- A. All applicable health and safety codes, including provisions of the NYS Fire Prevention and Building Code, are met.
- B. The maximum amount of coverage of buildings and paved areas on the lot shall not exceed fifteen percent (15%) of the lot area.
- C. Landscaped buffers shall be provided, which are sufficient to screen views of the facility from neighboring property and to minimize the impacts of noise, traffic and other operations of the facility on neighboring property, roads and other public facilities.

SECTION 707 DRIVE-IN BUSINESS

The Planning Board may approve a special use permit for a drive-in business in the B General Business District provided that the following standards and provisions are maintained:

- A. The following information shall be submitted as part of the application for site plan approval and for a special use permit for a drive-in business, in addition to that information required in other sections of the Ordinance.
 - 1. The location and dimensions of all structures including buildings, screened trash areas, fencing and lighting (show direction and level of illumination).
 - 2. The locations and dimensions of all off-street parking areas and driveways.
 - 3. Proposed landscaping of site.
- B. All drive-in businesses shall be a minimum of 200 feet from other such businesses, which distances shall be computed as follows:
 - 1. For such businesses on the same side of the street, 200 feet measured between the two (2) closest property lines.
 - 2. For such businesses on opposite sides of the street, 200 feet measured diagonally between the two closest property corners.
 - 3. For four-corner intersections, one (1) such business may be located on a diagonally opposite corner exclusive of the 200 foot distance requirement.

- C. Banks with drive-in facilities shall be permitted provided that at least five (5) car length spaces are provided in the approach drive within the property line of the lot for each drive-in teller's window. Such spaces shall be exclusive of required off-street parking spaces.
- D. All drive-in businesses shall provide suitable storage of trash in areas which are so designated and constructed as to allow no view of the trash storage from the street, to prevent waste paper from blowing around the site or adjacent properties or public right-of-ways, and to permit safe, easy removal of trash by truck or hand.
- E. The minimum distance from any driveway to a side lot line shall be twenty (20) feet.
- F. The minimum distance between driveways on the site shall be fifty (50) feet measured from the two (2) closest driveway curbs.
- G. The minimum distance into the site from a street intersection shall be 30 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
- H. Drive-in businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- I. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be higher than twenty (20) feet.
- J. Sufficient landscaping and fencing shall be provided in order to minimize visual impacts and minimize conflicts with adjacent land uses.
- K. Water supply and sewage disposal systems shall be reviewed by the Orleans County Health Department.
- L. Any outdoor eating area associated with a drive-in restaurant shall be maintained, landscaped and physically separated from any off-street parking area or driveway. Outdoor eating shall be allowed only if all parking and vehicular travel areas have a dust-free (paved) surface.

SECTION 708 ESSENTIAL SERVICES AND UTILITIES

Essential services and utilities may be allowed as special permit uses in all districts by the Planning Board. The Planning Board shall determine the following prior to approving a special permit:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- D. Adequate and attractive fences and other safety devices will be provided.

- E. Adequate off-street parking shall be provided.
- F. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground, if practical, as determined by the Planning Board during Site Plan Review.
- G. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- H. All major electrical transformer facilities or substations, if above ground, shall be secured by an outer and inner fence, each ten feet from each other at any point; also no transformer or associated switches shall be closer than 100 feet from any lot line.

Section 709 FARM MARKET

The Planning Board may approve a special use permit for farm markets in the AR Agricultural/ Residential Districts provided that the following standards and provisions are maintained:

- A. Such structures shall not exceed 2,000 square feet of floor area.
- B. Not more than 1/3 of the total floor area shall be for the display and sale of products grown off the premises.
- C. Such structures shall conform to the minimum setback requirements for accessory buildings in this district as specified in the Zoning Schedule.
- D. Sufficient land area shall be provided to accommodate off-street parking for not less than three (3) vehicles on site.

SECTION 710 HOME OCCUPATIONS

The Planning Board may approve a special use permit for Home Occupations in the AR Agricultural/ Residential and in the R-1 Residential Districts provided that the following standards and provisions are maintained:

- A. The type of business allowed as an in-home occupation includes, but is not limited to:
 - 1. Professional or business office
 - 2. Beauty shop or barber shop
 - 3. Family day care for no more than 6 children at any one time.
 - 4. Other similar business as determined by the Zoning Board of Appeals
- B. The business shall be owned and operated by the occupant of the residential structure.
- C. A total of at least four (4) parking spaces shall be provided. Such parking shall be provided off the street and other than in a required front yard.
- D. No more than three (3) persons, other than members of the immediate family occupying such dwelling, shall be employed as part of the home occupation or home professional occupation.
- E. A home occupation or home professional occupation must be conducted within a dwelling which is bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use. Such home occupations may occupy either up to thirty

(30) percent of the gross floor area of the residence to be used for the conduct of the home occupation or up to forty (40) percent of the floor area of an accessory structure but not both.

- F. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
- G. No outdoor display of goods or outside storage of equipment or materials used in the home occupation or profession shall be permitted.
- H. No sign shall be permitted except in accordance with the provisions of Section 600.
- I. Off-street parking shall be provided in accordance with Section 601.
- J. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- K. Only one (1) commercial type vehicle may be used in connection with the home occupation.
- L. Not more than one (1) home occupation or profession shall be permitted for each residential property.

SECTION 711 JUNK YARDS, AUTO WRECKING AND DISMANTLING YARDS

The Planning Board may approve a special use permit for a junkyard, auto wrecking and dismantling yard in the LI Light Industrial District provided the following standards and provisions are maintained:

- A. The provision of the State Junkyard Law (General Municipal Law, Section 136, as amended) are hereby adopted by reference and shall apply to all junk yards as defined in this Ordinance. The expansion or alteration existing junk yards shall also be governed by the provisions of this section.
- B. Minimum Dimensional Requirements:
 - Minimum Lot Size: 5 acres
 - Maximum Lot Size: 15 acres
 - Minimum Lot Width: 300 feet
 - Minimum Front, Side and Rear Setbacks: 100 feet
- C. A junk yard shall be completely surrounded with a solid fence at least eight feet in height which completely obscures the junk yard from public view and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be present. Such fence shall be erected no nearer than the required setbacks.
- D. All junk stored or deposited by the operator shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of business.
- E. All vehicles or engines stored in the yard shall first be drained of any oil, gasoline or other fluids. Such fluids shall be safely stored and disposed of off-site.

- F. There shall be no storage or stockpiling of tires or batteries except within an enclosed building.
- G. Direct sales to the general public shall be confined to an enclosed building located on the site, except for the sale of reconditioned motor vehicles. Said motor vehicles may be displayed in a defined area outside of the fenced junkyard portion but on the subject parcel. A minimum area of two hundred (200) square feet shall be required for each motor vehicle displayed for sale.
- H. No motor vehicle or dismantled parts may be stored within one hundred (100) feet of the bed of a stream carrying water on an average of six (6) months of the year.
- I. Off-street parking shall be in accordance with Section 601 of this Ordinance.
- J. A performance bond shall be submitted in an amount determined by the Planning Board as sufficient to cover the cost of required fencing, restoration of property, and Planning Board review.
- K. Special Permits granted pursuant to this Section shall be inspected annually.

SECTION 712 KENNELS

The Planning Board may approve a special use permit for kennels in the AR Agricultural/ Residential District and the B General Business District, provided that the following standards and provisions are maintained:

- A. The lot size shall be adequate to accommodate the number of animals proposed to be housed at site
The Planning Board shall specify a minimum lot size on a case by case basis.
- B. The Planning Board may require fencing or suitable enclosure for facilities located outside the building and, in addition may require buffer landscaping to create a visual ,sound and smell buffer between such facilities and adjacent properties.
- C. The Planing Board shall specify the minimum lot size ,setbacks for shelter , kennel outdoor runs for the animals.
- D. Adequate provisions shall be made for disposing of animal waste.
- E. Noise and odors shall not become a nuisance to adjacent property owners.
- F. In issuing the Special Use for kennels the Planning Board shall specify the maximum number and types of animals to be housed boarded or trained.
- G. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.

SECTION 713 MANUFACTURED HOME PARK

The Planning Board may approve a special use permit for manufactured home parks in the AR Agricultural/ Residential District, R-1 Residential District, and the B General Business District, provided that the following standards and provisions are maintained:

- A. The minimum site area of proposed manufactured home parks shall not be less than twenty (20) acres.
- B. Individual manufactured home lots shall have an area of not less than 7,500 square feet. Each individual lot shall front on an interior park roadway and have a minimum width of 75 feet.
- C. Setbacks for individual manufactured home lots

Minimum Front Setback: 20 feet
Minimum Side Setback: 20 feet
Minimum Rear Setback: 10 feet
- D. The minimum setbacks of every manufactured home, building or other structure in a park from the nearest public street line shall be seventy (70) feet, and from every other lot line of the park shall be forty (40) feet.
- E. Not more than one (1) manufactured home shall be located on any one (1) individual lot. Every manufactured home within a park shall be located on a manufactured home lot shown on the approved site plan for said park.
- F. At least one (1) framed service building shall be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools, and materials shall be stored within said building when they are not in use.
- G. Each individual lot shall have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by a paved sidewalk having a minimum width of thirty-six (36) inches.
- H. No boats, campers, travel trailers, recreational vehicles, or unregistered and unregistered motor vehicles shall be parked or stored at any place within a manufactured home park except in areas designated and approved for such storage as part of the site plan approval.
- I. Every travel lane and parking lane within a manufactured home park shall have a minimum pavement width of twelve (12) feet and each roadway shall have a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist, they shall have a minimum diameter of eighty (80) feet.
- J. A complete water distribution system approved by the Orleans County Health Department and other appropriate agencies, including a water-service pipe for each manufactured home lot and appropriately spaced fire hydrants, shall be installed.
- K. A public sanitary sewage disposal system approved by the Orleans County Health Department and other appropriate agencies shall be installed, including a sewer connection for each manufactured home lot.

- L. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- M. Appropriate lighting shall be installed on interior roadways with the minimum number of lights being one light for each house or lot, and one light at each intersection of interior roadways.
- N. Pedestrian walkways, if provided, shall be a minimum of five (5) feet in width.
- O. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- P. No manufactured home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system, storm drainage system, street lighting, landscaping, recreation areas, framed service buildings, and accessory vehicular storage buildings serving the manufactured home park have been installed in accordance with the approved site plan for the park.
- Q. Each roadway shall be named and noted upon signs at each roadway intersection. Each manufactured home lot shall be assigned a permanent number which shall be noted on the manufactured home lot in a location clearly visible from the roadway.
- R. All fuel tanks used for heating within a manufactured home park, including all fuel tanks used for heating within individual homes, shall be installed in accordance with NFPA standards.
- S. Every manufactured home park shall have a recreational area or open space area for use by the occupants of the park. Such areas shall be appropriately located as the topography and design of the park permit. Such areas shall not be less than one (1) acre for the first 20 manufactured home lots, with an additional 1,000 square feet provided for each additional manufactured home lot.
- T. The park owner/operator shall provide for the regular collection and disposal of garbage, trash, and rubbish for all residents of the park.
- U. No more than one (1) accessory building shall be permitted on any individual manufactured home lot.
- V. Each manufactured home shall be enclosed at the bottom with a fire resistant, properly maintained, stable, and enclosed skirt within thirty days after the placement of the home on the lot.
- W. No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed on, added to, or attached to the exterior of any manufactured home.
- X. No manufactured home shall be offered for sale, displayed for sale, or sold within a park unless such manufactured home is located on an individual manufactured home lot and is connected to electric, sewer and water services.
- Y. Every roadway within a manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner/operator shall be responsible for providing and paying the cost of such maintenance and for all necessary snow removal.

- Z. Sale of Lots. Any sale of a manufactured home lot or lots, or a portion of a manufactured home park, other than the entire manufactured home park, as shown on the plan of such park approved by the town, shall thereupon immediately invalidate the special permit for such park approved by the Planning Board. Any use of any of the premises within the manufactured home park other than as a manufactured home park shall thereupon immediately invalidate the special permit of such park approved by the Planning Board.
- AA. Home Occupations. Home occupations or businesses shall not be permitted in any individual manufactured home located within a park.

SECTION 714 MOTOR VEHICLE, BOAT OR MANUFACTURED HOME SALES

The Planning Board may approve a special use permit for the sales of motor vehicles, boats or manufactured homes in the General Business (B) District provided that the following standards and provisions are maintained:

- A. Such sales may be conducted either in a fully enclosed building located on the same lot, or in an unenclosed area.
 - 1. If such sales are conducted in a fully enclosed building located on the same lot, such building shall have a building area of not less than 5,000 square feet devoted to the sale and service of automobiles or boats.
 - 2. If sale of new and/or used automobiles, boats or manufactured housing is carried on in an unenclosed area, the following standards shall be maintained:
 - a. Such unenclosed area used for the storage of automobiles or boats, or traversed by motor vehicles, shall be paved, shall be suitably drained, and shall be maintained in a neat and orderly manner.
 - b. All exterior illumination shall be approved by the Planning Board and shall be shielded from the view of all surrounding properties and streets.
 - c. Suitable landscaping and/or fencing of such unenclosed area shall be required.
 - d. No establishment for the sale of new and used automobiles, boats or manufactured housing shall be opened, conducted, or maintained except as provided above. None of the provisions of this section, however, shall be deemed to prohibit the continuance of the present use of any property for the sale of new and used automobiles, boats, or manufactured housing provided that any such continued use shall be subject to all of the provisions of this section. Plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Planning Board may approve, modify, or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this Ordinance shall be observed.

B. Minimum Specifications

Front Setback:	75 Feet	Side Setback:	30 Feet
Rear Setback:	30 Feet	Lot Width:	200 Feet
Lot Size:	1 Acre		

- C. No vehicles shall be displayed for sale or rent within 35 feet of the front property line, or within 25 feet of any side or rear property line. No manufactured homes shall be displayed within any required building setback. The maximum coverage for buildings shall apply to manufactured homes for sale, in addition to buildings used in the conduct of such sales.
- D. No retail sale of fuels shall occur on the site at any time.
- E. All sign age shall comply with Section 600 of this Ordinance.
- F. No exterior light source shall be erected in excess of 50 feet above the ground surface and all lighting shall be placed to eliminate the casting of direct light or glare upon adjacent properties.
- G. Repair of motor vehicles on site is prohibited unless the provisions found in Section 715 **-Motor Vehicle Service Stations and Auto Repair Shops** of this Ordinance are complied with in full.

SECTION 715 MOTOR VEHICLE SERVICE STATIONS AND AUTO REPAIR SHOPS

The Planning Board may approve a special use permit for motor vehicle service stations and auto repair shops in the B - General Business District provided that the following standards and conditions are maintained:

- A. In addition to the information required in the special permit and site plan review applications and enumerated in Articles X and XI herein, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, and number and location of fuel pumps to be installed.
- B. Such uses shall be screened from adjacent uses by a buffer area not less than ten (10) feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the property line. The Planning Board shall determine on an individual case basis how close to the right-of-way the landscaped buffer shall be required to be installed. Such buffer screen shall have a minimum height of six (6) feet above the ground. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer shall direct the property owner to replace said shrubs.
- C. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- D. All repairs of motor vehicles, except for minor servicing, shall be performed in a fully enclosed building. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E. No commercial parking shall be allowed on the premises of a motor vehicle service station or auto repair shop.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- G. No accessory building or structure, including gasoline pump or automotive service appliances, shall be erected within forty (40) feet of any street line.

- H. No motor vehicle service station or auto repair shop may display more than four (4) unregistered vehicles for sale or repair outside of an enclosed building at any one time. All licensed motor vehicles being serviced or repaired shall be stored in a neat, orderly manner.
- I. No motor vehicle service station or auto repair shop shall have more than two (2) driveways on any public street fronting the site. The driveway width on any street shall not exceed one third of the total site frontage on each street.
- J. No driveway shall be closer than fifty (50) feet to the intersection of two street lines, or within twenty (20) feet of an adjacent lot line.
- K. No motor vehicle service station or auto repair shop and no driveway to any such use shall be established within two hundred (200) feet of the boundary line of the R-1 Residential District, or of any school, church, park, playground, public library, or any place of public assembly designed for occupancy by fifty (50) persons or more, regardless of the district where the subject premises are located. For the purposes of this Section, the distance shall be measured along the street line on the side of the street where such use is proposed or such driveway would cross.

SECTION 716 MULTIPLE FAMILY DWELLINGS

The Planning Board may approve a special use permit for multiple family developments in the B - General Business District provided that the following standards and provisions are maintained:

- A. The maximum gross density shall not exceed eight (8) units per acre.
- B. Minimum Habitable Floor Area Requirements:

1. Townhouse units with two bedrooms or less:	850 square feet
2. Townhouse units with three bedrooms or more:	1,000 square feet
3. Efficiency Apartment unit:	450 square feet
4. Apartment unit with one bedroom:	550 square feet
5. Apartment unit with two bedrooms:	700 square feet
6. Apartment unit with three bedrooms:	900 square feet
- C. Unit Distribution
 - 1. No more than thirty (30) percent of the total units within a multiple family dwelling development shall be three (3) or more bedroom units.
 - 2. No more than thirty (30) percent of the total units within a multiple family dwelling development shall be efficiency units.
- D. Setback Requirements:
 - 1. The minimum front setback from the right-of-way of any public street shall be 75 feet.
 - 2. The side and rear setbacks shall be 50 feet from all other lot lines.
 - 3. Minimum distance between buildings in a multiple family dwelling development shall be 60 feet.

4. Direct line of sight visibility from one building to another shall not be less than one hundred (100) feet.
 5. Every building shall have a minimum setback of twenty-five (25) feet from all interior roads, driveways and parking areas.
 6. A strip of land at least six (6) feet in width surrounding each building shall be kept completely open except for foundation plantings of less than six (6) feet in height.
 7. Court yards bounded on three sides by the wings of a single building or by the walls of separate buildings shall have a minimum court width of two (2) feet for each one (1) foot in height of the tallest adjacent building.
- E. No exterior wall shall exceed one hundred (100) feet in length unless there is a lateral offset of at least eight (8) feet in its alignment not less frequently than along each one hundred (100) feet of length of such exterior wall.
- F. All stairways to the second floor or higher shall be located inside the building.
- G. Access to public road:
1. All multiple-family dwelling developments shall have direct access to public roads.
 2. If there are more than twelve (12) dwelling units in a multiple-family development, direct access shall be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
 3. If there are more than fifty (50) dwelling units in a multiple-family development, or if in the opinion of the Planning Board the location or topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- H. Requirements for off-street parking as provided in Section 601 of this Ordinance shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve.
- I. Off-street parking shall be provided in the amount of two (2) spaces for each unit.
- J. The aggregate of building coverage of multiple-family dwelling development shall not exceed thirty (30) percent of the total lot area.
- K. Services:
1. Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.
 2. There shall be a minimum common storage area in each building for bicycles, perambulators and similar type equipment of forty (40) square feet in area, a minimum of five (5) feet in height and not less than four (4) feet in width per dwelling unit.

3. Sufficient laundry, drying, garbage pick-up and other utility areas shall be provided and shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six (6) feet in height around the perimeter. Fencing and walls shall be not more than fifty (50) percent open on the vertical surface.

L. Recreation, open space, maintenance:

1. Multiple family dwelling complexes shall be designed to create usable private open space. A minimum of ten (10) percent of the total tract area, exclusive of the required setback areas, buffer strip and parking areas shall be designated for common recreational purposes.
2. No recreational area shall be less than ten thousand (10,000) square feet in area nor less than one hundred (100) feet in width. Areas designated for recreation purposes shall be approved by the Planning Board.
3. Multiple family dwelling complexes shall be attractively shrubbed and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structures or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.

M. Utilities:

1. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
2. Multiple family developments shall be connected to and served by public water supply and sanitary sewer systems. Such systems shall be approved by the Orleans County Health Department and other applicable agencies.

SECTION 717 PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

The Planning Board may approve a special use permit for public and semi-public uses of an institutional, health, educational, recreational, religious or cultural nature in any zoning district provided that the following standards and provisions are maintained:

A. Day Care Centers

1. All day care centers shall have an active outdoor play area of 100 square feet per child.
2. Outdoor play areas shall be appropriately fenced in or otherwise protected from roads and nearby properties.
3. No outdoor play equipment may be placed within ten feet of any property line, fence, or structure.
4. Minimum parking shall be one (1) space per staff member, plus one (1) space per each five (5) children.
5. The operator shall have a valid license from New York State.

B. All Other Public & Semi-Public Uses

1. The application shall include a statement setting forth the details of the operation of the use.
2. The applicant shall provide evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
3. The proposal shall meet the minimum area and yard requirements for such uses as specified in the Zoning Schedule.
4. The proposed use shall meet the minimum off-street parking and loading and unloading requirements of this Ordinance as well as provisions for landscaping, buffering, signs and access ways.
5. The Planning Board, in considering the request for a special use permit, may impose conditions it deems necessary to protect the health, safety and public welfare of the Town.

SECTION 718 STABLES OR RIDING ACADEMIES

The Planning Board may approve a special use permit for the use of land and buildings for stables for the commercial boarding of horses or riding academies in the AR Agricultural/ Residential District provided that the following standards and provisions are maintained:

- A. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- B. The permitted use may include any of the following:
 1. Storage of horse vans for conveying or vanning of horses as may be accessory to the principal use.
 2. Sale or rental of horses for use by public by the hour, day, month or year.
 3. Rides on horses by the public.
 4. Rental of horse vans.
 5. Riding lessons to the public.
 6. Sale of horse supplies and/or equipment.
- C. The land devoted to this use shall not be less than ten (10) contiguous acres.
- D. One principal single family dwelling may be located on the land devoted to this use provided that it complies with the requirements for this Ordinance. The land area on which the principal single family dwelling is located (minimum lot size of AR District) shall not be considered as part of the land "devoted to this use" as set forth in paragraph C above.

- E. The number of horses that may be boarded and/or trained at such property shall not exceed 25 horses for the first 10 acres of land devoted to this use, plus one horse for each additional half acre of land available for such purpose.
- F. The stable shall be located not less than 100 feet from any boundary line. The storage of manure shall be located on land not less than 200 feet from any boundary line. The Planning Board may require manure storage areas to be screened and/or buffered from adjacent areas.
- G. Any riding ring shall be at least 50 feet from any boundary line.
- H. Accessory buildings such as barns (not housing horses), sheds and the like, may be located on the land devoted to this use provided that they are set back a minimum of fifty (50) feet from the street line and from each boundary, and provided further that they are not used for the storage of manure.
- I. Structures on the land devoted to this use (not including the principal dwelling) shall not be in the aggregate cover more than five percent of the area of the land devoted to this use.
- J. No structure shall exceed 35 feet in height.
- K. Suitable and adequate off-street parking shall be provided in accordance with the requirements established by this Ordinance and the Planning Board.
- L. Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.
- M. The installation and use of exterior loudspeakers shall be conducted in such a manner as to minimize potential nuisances to adjacent properties.

SECTION 719 TELECOMMUNICATION FACILITY

The Planning Board may approve a special use permit for the use of land and buildings for a telecommunication facility in the AR Agricultural/ Residential District or the LI Light Industrial District provided that the following standards and provisions are maintained:

A. Purpose

The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Barre; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

B. General Criteria

No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunications Facility shall be authorized by the Planning Board unless it finds that such Telecommunications Facility:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
3. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this Ordinance, unless expressly superseded herein;
5. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility;
6. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

C. Co-Location

The shared use of existing Telecommunications Facilities or other structures shall be preferred to the construction of new Facilities. Any Special Permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure. The application shall include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use an alternative to the proposed location.

The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facility sites in the inventory due to one (1) or more of the following reasons:

1. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities;
2. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
3. Existing or approved Telecommunications Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
5. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.

D. Dimensional Standards

1. A fall zone around any tower constructed as part of a Telecommunications Facility must have a radius at least equal to the height of the tower and any antennae(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the Telecommunications Facility. If the Facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
2. All Telecommunications Facilities shall be located on a single parcel.
3. All Telecommunications Facilities shall comply with the setback standards of the underlying zoning district. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of Telecommunications Facility shall not result in the creation of a non-conforming lot.
4. The frontage requirement of the underlying zoning district shall not apply, provided the Telecommunications Facility is not proposed on a parcel to be partitioned specifically for the Facility and/or is designed for occupancy by staff. In the absence of required frontage, an access for service vehicles - either through easement, lease or ownership - shall be in accord with paragraph G herein.

E. Lighting and Marking

1. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph 1, an applicant may be compelled to add FAA-style lighting and marking, if in the judgement of the Planning Board, such a requirement would be of direct benefit to public safety.

F. Appearance and Buffering

1. The use of any portion of a Telecommunications Facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, pursuant to paragraphs E.1. and E.2. herein, shall otherwise:
 - a. have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board; or
 - b. be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the Facility to perform its designed function.

3. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. The Planning Board may require a State Environmental Quality Review (SEQR) Full EAF (Environmental Assessment Form) for proposed Facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF), may be required as an addendum to either the Full or Short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
5. The Planning Board shall require that the Facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
6. Equipment or vehicles not used in direct support, renovations, additions or repair of any Telecommunications Facility shall not be stored or parked on the Facility site.

G. Access and Parking

1. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for Telecommunications Facilities must be at least twenty (20), but no more than thirty (30) ft. wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within access ways and shall not comprise more than 60% of the width of the access way.
3. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

H. Security

1. Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) ft. in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.
2. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
3. There shall be no permanent climbing pegs within fifteen (15) feet off the ground of any tower.

4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

I. Engineering and Maintenance

1. Site plans for all Telecommunications Facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every Facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the municipal code enforcement officer.
3. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
4. The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

J. Removal

1. At the time of submittal of the application of a special use permit for a Telecommunications Facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a Telecommunications Facility if such Facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than one hundred thousand (\$100,000) dollars.
3. At time of renewal or modification of the Special Use Permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Telecommunications Facility and property restoration.

**SECTION 720 ADULT BOOKSTORES AND ADULT ENTERTAINMENT
ESTABLISHMENTS**

Adult bookstores and adult entertainment establishments, as defined herein, may be approved in the LI-Light Industrial District by the Town Planning Board following a public hearing and provided that the standards and provisions specified below are maintained:

A. Purpose

1. In the execution of this Ordinance it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or land uses.
2. It is further declared that the location of adult bookstores or adult entertainment establishments in areas where youth may regularly assemble, and the general atmosphere encompassing their operations, is of great concern to the Town of Barre.
3. These special regulations are intended to accomplish the primary purpose of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

B. General Regulations

1. The proposed use shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.
2. An adult bookstore or adult entertainment establishment use shall not be operated within one-thousand (1,000) feet of:
 - a) a church, synagogue or place of worship.
 - b) a public or private elementary or secondary school, day care, pre-school or other uses of a similar nature.
 - c) a boundary of any AR or R-1 zoning district.
 - d) a public park, municipal building or community center.
3. An adult bookstore or adult entertainment establishment shall not be operated within one-thousand (1,000) feet of another adult bookstore or adult entertainment establishment, or on the same lot or parcel of land.
4. An adult bookstore or adult entertainment establishment shall not be operated in the same building, structure, or portion thereof, containing another adult bookstore or adult entertainment establishment.
5. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structures as part of the premises where an adult bookstore or adult entertainment establishment is conducted, to the nearest property line of the premises of any of the uses specified in B.2. a) through d) identified above or to another adult bookstore or adult entertainment establishment.
6. All adult bookstores or adult entertainment establishments shall be conducted in an enclosed building, regardless of location.

7. No exterior sign shall contain any photographic or artistic representation of the human body.
8. All building openings, entries, windows, doors, etc. associated with an adult bookstore or adult entertainment establishment shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
9. No adult bookstore or adult entertainment use shall be established in any building which is used, in part, for residential purposes.
10. No residential use shall be established in any building which contains an approved adult bookstore or adult entertainment use.
11. No more than one (1) of the adult uses as defined above shall be located on any lot.

C. Waiver of Restrictions

The restrictions enumerated in Section 720.B above may be waived by the Town Planning Board if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in Article VIII of this Ordinance:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Ordinance will be observed;
2. That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or non-residential; and
3. That fifty-one percent (51%) or more of the property owners within the restricted area as defined in Section 720.B.2 of this Ordinance have signed a petition stating that they have no objection to the establishment of the uses defined above.

D. Amortization

By amortization, the right to maintain a legal non-conforming adult use shall terminate in accordance with the following schedule:

Amount of Capital Investment* as of the Effective Date of this Ordinance	Date Before Which Use Shall Terminate
\$ 0 to 5,000	January 1, 1998
\$ 5,001 to 8,000	January 1, 1999
\$ 8,001 to 15,000	January 1, 2000
\$ 15,001 to 22,000	January 1, 2001
\$ 22,000 or more	January 1, 2002

*NOTE: The term "capital investment," as used above is defined to mean the initial outlay by the owner or operator of the use to establish the business as of the date of the enactment of the Ordinance, exclusive of the fair market value of the structure in which the use is located.

Section 721 FARM LABOR CAMP

The Planning Board may approve the construction and maintenance of temporary housing to support individual agricultural operation with AR housing to support individual agricultural operation within a AR District provided the following standards and condition are maintained.

The maximum number of temporary housing units allowed for an individual agricultural operation will be based on:

- A. Justification of need for the number of dwelling units requested. . This justifications to be based on full time seasonal employment by (1) one or more persons living as a family in temporary dwelling Unit and deriving their principal income from the individual agricultural operation for which The Special Use Permit is requested.
- B. A temporary housing unit will be only be occupied during ,growing and harvest season for agricultural operation . All other times ,the temporary housing units will be secured and maintained in state of good repair.
- C. No temporary housing unit will be used ,leased or rented to another person if that person does not have a legal interest established with the individual agricultural operation. The land owner will certify ,on an annual basis that the temporary farm housing is used for his /her farm labor.
- D. All temporary housing units will be located on a parcel that is under the same ownership as individual agricultural operation.
- E. All temporary housing units will comply with the New York Sate Uniform Fire and building code.
- F. All temporary housing units will have a septic system approved by Orleans County Health Department ,or an approved connection to public answer system.
- G. All temporary housing units will have and adequate access to public highway. The access may be combined with driveway for owner of individual agricultural operation and any other temporary housing units associated with said individual agricultural operation.
- H. All temporary housing will refer to Section 601 Parking, Article VI
- I. All temporary housing units will be located on portion of an actively farmed site which the planning board determines would cause the least disruption to continue farming operation. The basis for this determination will include an overall site plan identifying the land needed for production and land needed for production and land needed in support of said production.
- J. All temporary housing units will be subject to the front side and rear setback standards specified for principle buildings in AR District.

SECTION 722 MINING/EXCAVATION

Background

The New York State Department of Environmental Conservation (DEC) regulates mining and the reclamation of mined land when the mining operation would remove more than 1000 tons of material within a calendar year. Recent court decisions have stated that DEC's authority supercedes local zoning control of mining operations., Local governments may regulate whether and where such mining may take place within the municipality.

The following suggests a definition of mining/excavation as well as draft special permit criteria for the review of proposed mining/excavation operations. Note that extensive regulations are proposed for small scale operations that are not regulated by DEC(paragraph F). For mining operations regulated by DEC, the proposed regulations are limited to location of mining operations and reference required DEC permit (paragraph E).

Definitions

EXTRACTION OF STONE AND OTHER MINING OPERATION- Any use of the principal activity of which the extraction of 500 or more yards of stone, gravel, sand, soil or other minerals from any lot within a period of 24 consecutive months for the purpose of sale. The term shall not include the incidental extraction and sale of soil or minerals as part of an agricultural use, development of a site, road construction, installation of utilities or other subdivision improvements.

GRAVEL OR SAND PIT- See “Extraction of stone and other mining operation.”

Regulations

EXTRACTION OF STONE AND OTHER MINING OPERATION

The extraction of stone, sand or gravel shall be permitted with a special use permit in the Districts allowed by the ordinance provided the following standards and conditions are maintained. The minimum parcel size shall be not less than 10 acres.

- A. The extraction of stone, sand and gravel shall be in accordance with applicable statutory provisions.
- B. Notwithstanding the following regulations, property owners may conduct earthmoving, excavation and filling operations and may utilize gravel, stone or quarry materials in the preparation of building sites or for activities in accordance with an approved final subdivision plan, or for agricultural purposes thereon; provided that such soil, stone, gravel or other materials are not sold.
- C. The Planning Board may issue and renew permits for the extraction of mineral for commercial purposes and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
- D. Renewal of permits shall require that all activities undertaken pursuant to the initial permit shall have been conducted in compliance with the terms of such permit and all provisions of this chapter.
- E. Regulations applicable to the excavation of more than 1,000 tons of mineral [roughly equivalent to at least 750 cubic yards or 40 to 50 truckloads] for commercial purposes within 12 consecutive calendar months and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
 1. The Planning Board may issue or renew a special use permit for such a use,

provided that the proposed excavation or reclamation has been duly approved by the New York State DEC in accordance with the New York State Reclamation Law, Title 27 of the New York State Environmental Law.

2. All excavation and reclamation shall be made only in accordance with a mined land use plan, including a mining and reclamation plan, which has been duly approved by the New York State DEC. This plan shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. All permit application information, including mined land use plans, submitted to the DEC, along with all correspondence from the Department regarding the permit application, shall be submitted to the town.
 3. No excavation shall be closer than 100 feet to any street line or other property line, and no excavation below the grade of a street or a property line shall be closer than 100 feet therefrom. No excavation shall be closer than 100 feet to a natural stream.
 4. The town shall notify the DEC of local concerns with regards to activities subject to the subsection.
- F. Regulations applicable to the excavation of 1,000 or fewer tons of minerals [roughly equivalent to no more than 750 cubic yards or 40 to 50 truckloads] for commercial purposes with 12 consecutive calendar months and for the reclamation of land affected by the excavation, including any operation accessory to the excavation or reclamation.
1. The Planning Board may issue a permit for a period of no more than one (1) year. Such permit may be renewed for additional periods no greater than that for which the permit was originally issued.
 2. Such permit shall be issued or renewed, provided that the excavation or reclamation:
 - a. conforms to the applicable regulations of this chapter; and
 - b. will not be detrimental to the appropriate and orderly development of the district in which it is situated or impair the value thereof.
 3. All excavations and reclamation shall be made only in accordance with plans approved by the Planning Board. These plans shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. In addition to the information required in Section 4a, these plans shall show:
 - a. the location of the site and its relation to neighboring properties and roads with 500 feet from the site;
 - b. the location of access drives into the site;
 - c. plans for erosion and sedimentation control during excavation and reclamation;
 - d. areas to be excavated;
 - e. the location and description of fences and barricades;
 - f. the location and description of accessory uses;
 - g. the location and description of easements;

- h. hours of operation;
 - i. plans for control of noise and dust;
 - j. slopes before and after excavation;
 - k. drainage of surface water and groundwater before and after excavation;
 - l. the proposed level of any impounded water;
 - m. proposed vegetation after excavation;
 - n. the disposal of debris, refuse, tailings, waste or spoils;
 - o. information from all serving utility companies as to the location of easements and underground facilities;
 - p. any additional information required by the Planning Board to ensure the provisions of this section are complied with.
4. No excavation shall be closer than 100 feet to any street line or other property line, and no excavation below the grade of a street or a property line shall be closer than 100 feet therefrom. No excavation shall be closer than 100 feet to a natural stream.
 5. Fences or barricades shall be erected on all sides of an excavation area that abuts a residential area or road to protect pedestrians and vehicles. Fencing may be required depending upon the existence of a earthen berm, the nature of the operations, distance from developed area, distance from property lines, depth of pit water, and slope of pit walls.
 6. All haulageways leading to public highways shall be dust and mud free. All precautions shall be taken to prevent dust and dirt from being blown from the premises.
 7. Noise created by excavation and reclamation operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property. Noise shall be in accordance with and not exceed the MSHA levels from sunset to sunrise.
 8. All debris, stumps, boulders and similar waste materials shall be removed from the site and properly disposed of or, in the case of inorganic material, buried and covered with a minimum of two(2) feet of compacted soil. All such materials shall have been identified to the Planning Board as part of the approved application permit.
 9. All rock blasting shall occur during daylight hours Monday through Friday and shall be conducted in accordance with all applicable regulations under the personal supervision of a person holding a current license and certificate of competence from the New York State Department of Labor. Before any blasting occurs, the applicant shall file evidence of insurance or shall file a bond in such form, amount and coverage as determined by the Planning Board and Town Attorney to be adequate in each case to indemnify any injured parties against damages arising from the blasting.
 10. Subsoil and topsoil shall be respread over the excavation areas to a minimum depth of one (1) foot [six inches of topsoil and six inches of subsoil]. This soil shall be treated with lime and fertilizer and seeded with a grass or legume mixture prescribed by the

- Planning Board. The planted area shall be protected from erosion during the establishment period using generally accepted soil conservation practices. A plan describing the revegetation of reclaimed land, including location, size and type of all materials to be planted and the type, location and rate of all seeding to be done, shall be included as part of the site plan submitted to the Planning Board.
11. An adequate and comprehensive drainage system shall be provided to convey the storm water runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed areas. During and upon completion of the excavation operation, [with one year after completion of the excavation operation] the land shall be left so that natural storm drainage leaves the property at the original drainage points or other drainage points if appropriate and approved by the Planning Board. Also the rate of drainage to any one point shall not be significantly increased.
 12. The reclamation method shall be such to allow for the future use permitted in the district in which the site is located. For sites to be reclaimed for residential purposes, a minimum depth of five(5) feet of undisturbed material above the water table shall be maintained during excavations.
 13. Within one(1) year after the termination of the excavation operation, all equipment, buildings and structures not consistent with the planned use of the reclaimed land and all unsightly evidence of the operation shall have been removed from the premises and disposed of by the methods approved by the Planning Board or other authority having jurisdiction and all restoration shall have been completed.
 14. Reclamation, where possible, shall provide for orderly, continuing reclamation concurrent with excavation operations, and all reclamation work shall be completed in accordance with a schedule accepted as a condition of the approved permit.
 15. A description of the mining method shall be provided indicating compliance with all applicable regulations and environmental codes. Such descriptions shall include, but not necessarily limited to, the method of extraction, the locations and extent of any cut or excavation, the location and size of all stockpiles or spoil banks, the disposition of all materials used in and resulting from the mining and location and treatment of haulageways.
 16. All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land or improvements or damage to any street or user of a highway by reason of slides, sinking or collapse.
 17. Erosion and sedimentation control measures shall be installed to keep all sediment damage on the applicant's property.
 18. The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material, except where a suitable retaining wall is built to provide lateral support.

19. Storage piles of materials obtained as a result of the mining operation, topsoil and waste materials, including but not limited to vegetation, subsoil, rock overburden, and soil, shall not be located closer to property lines than is permitted for excavations. Storage piles shall include material classified as toxic by the New York State DEC. During excavation operations, all stockpiles of soil shall be seeded or otherwise treated to minimize the effects of erosion by wind or water upon public roads, steams or adjacent properties. After completion of excavation operations, waste materials shall be removed from the site or may be used in filling all open pits, quarries, etc. piles of excess waste materials shall be leveled and the excavated areas shall be graded, topsoil added, seeded and planted to prevent erosion.
20. The Planning Board shall require a cash bond or letter of credit to be posted in an amount and form to be determined by that Board, ensuring conformance to approved excavation and reclamation plans and all applicable regulations. The Planning Board shall set a reasonable time limit for such bond, not to exceed one(1) year or the term of the permit or renewal, except in the case of continuing excavation operations when a bond may be renewed or extended with each permit renewal.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION 800 ENFORCEMENT

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Code Enforcement Officer (CEO), who shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The CEO shall receive such compensation as the Town Board shall determine.

SECTION 801 DUTIES AND PROCEDURES OF THE CODE ENFORCEMENT OFFICER

- A. It shall be the duty of the Code Enforcement Officer or his duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Ordinance. In the fulfillment of their duties, the Code Enforcement Officer or his authorized assistants may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law **after due written notice has been given.**
- B. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify, **in writing**, the person responsible for such violations, indicating the nature of the violation and order the action to correct it. In his efforts to attain compliance, the Code Enforcement Officer shall have the authority to order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work; or, discontinuance of any illegal work being done. On the serving of notice by the Code Enforcement Officer to the owner of any property violating any of the provisions of this Ordinance, the Certificate of Compliance for such building or use shall be held null and void. A new Certificate of Compliance shall be required for any further use of such building or premises.
- C. It shall be the duty of the Code Enforcement Officer to issue permits and certificates to applicants who fully comply with the provisions of this Ordinance.
- D. The Code Enforcement Officer shall maintain a permanent and current record of all applications for permits and certificates, his action upon same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his office and shall be available for use by Town officials and for inspection by the public. The records to be maintained shall include the following:
 1. Application File. An individual permanent file for each application for a permit or certificate provided for by this Ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, one (1) copy of any resolutions or actions of the Town Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.

2. Quarterly Report. The Code Enforcement Officer shall prepare a quarterly report for the Town Board. Said report shall cite all actions taken by the Code Enforcement Officer, including all referrals made by him; all permits and certificates issued and denied; all complaints of violation received and all violations found by him, and the action taken by him consequent thereon; and the time spent and mileage used.
- E. Whenever the Code Enforcement Officer denies a permit or certificate he shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
 - F. The Code Enforcement Officer shall maintain a current list and a map of non-conforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.
 - G. The Code Enforcement Officer shall maintain a current list and a map showing the variances and special use permits to determine if the conditions and safeguards placed on variances and special use permits are being complied with.
 - H. Upon written direction from the Planning Board, the Code Enforcement Officer shall issue special use permits. Upon approval of a variance by the Zoning Board of Appeals, the Code Enforcement Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.
 - I. The Code Enforcement Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

SECTION 802 CREATION, APPOINTMENT AND ORGANIZATION OF PLANNING BOARD

- A. Pursuant to the provisions of the Town Law applicable thereto, the Town Board shall appoint a Planning Board consisting of the number of members and for the term of years set forth in Section 271 of the Town Law.
- B. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of their business, and may amend, modify and repeal the same from time to time.
- C. The Town Board may select a chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

SECTION 803 POWERS AND DUTIES OF THE PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A. To review and recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-a of Town Law and/or Town Board Resolution.
- B. To review and comment on all proposed zoning amendments and to make investigations, maps, reports and recommendations relating to the planning and development of the Town as it deems desirable. This shall include but not be limited to changes in boundaries of districts, recommended changes in the provisions of this Ordinance, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Town Board.

- C. To review Site Plans as authorized by New York State Town Law and prescribed in Article X of this Ordinance.
- D. To review applications for Special Use Permits as authorized by Articles VII and IX of this Ordinance.
- E. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.
- F. To review, act on or provide advisory reports as specified by this Ordinance.
- G. To make referrals to other Town Departments, Boards and/or officials to request advisory opinions to assist the Planning Board in making decisions which affect the development of the Town.
- H. All such powers and duties as are conferred upon Town Planning Boards and subject to the limitations set forth in Sections 272, 272-a, 274, 274-a, 275, 276, 277, 278, and 281 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

SECTION 804 PLANNING BOARD OFFICE AND RECORDS

- A. The Office of the Town Clerk shall be the Office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York.
- B. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

SECTION 805 CREATION, APPOINTMENT AND ORGANIZATION OF THE ZONING BOARD OF APPEALS

- A. A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board, who shall also designate a Chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment. Their successors shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Town Board by appointment for the length of the unexpired term.
- B. In making such appointments, the Town Board may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.
- C. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause and may provide by local law for removal, after public hearing, of any

Board of Appeals member for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law.

- D. The Zoning Board of Appeals shall establish such rules and regulations as are required by state and local laws for the transaction of their business and may amend, modify and repeal the same from time to time.

SECTION 806 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS

The Board of Appeals shall have all the powers and duties prescribed by Chapter 62, Section 267, of the Town Law of the State of New York and by this Ordinance which are more particularly specified as follows:

A. Appeals for Administrative Review, Interpretations and Determinations

1. The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this Ordinance.
2. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
3. The Zoning Board of Appeals shall hear and decide on interpretive matters where the provisions of this Ordinance, including the determination of exact district boundaries, are not clear.

B. Variances

1. The Board of Appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties.
2. As used herein, a variance may be authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.
3. A variance shall not be granted solely because of the presence of non-conformities in the zoning district or uses in other zoning districts.
4. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
5. Variances granted shall be the minimum which would accomplish the purpose of providing for reasonable use of land or buildings.
6. Variances granted shall be in harmony with the general purpose and intent of this Ordinance and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SECTION 807 PERMITTED ACTIONS ON AREA OR USE VARIANCES

A. Area Variances

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such Ordinance or local law, or in conjunction with an application for Site Plan Review or subdivision approval, to grant area variances as defined herein.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - c) whether the requested area variance is substantial;
 - d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
3. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Use Variances

1. The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this Ordinance, shall have the power to grant use variances, as defined herein.
2. No such use variance shall be granted by a Board of Appeals without showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - b) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

- c) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d) the alleged hardship has not been self-created.
3. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Imposition of Conditions

The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Ordinance, and shall be imposed for the purpose of minimizing any adverse impact that such variance may have on the neighborhood or community.

SECTION 808 PROCEDURES FOR APPEALS AND VARIANCES

A. Variance Procedures

- 1. The applicant may arrange an informal discussion with the Board of Appeals to determine any and all of the data to be included in the application.
- 2. All applications for variances shall be made in quadruplicate to the Code Enforcement Officer (CEO) on forms provided by the CEO and shall be accompanied by plans and supporting documents to sufficiently describe the proposal. All applications shall refer to the specific provision of the law involved and establish the details of why the variance should be granted. The Board of Appeals may request additional information it deems necessary in order to act on the application.
- 3. The CEO, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.
- 4. Use Variance within Agricultural District

Where an application for a use variance involves land lying within certain distances prescribed in Section 283-a of Town Law, an agricultural data statement shall be prepared and proper notice thereof given to all affected property owners.

5. Public Hearing on Appeal

The Board of Appeals shall fix a reasonable time for the public hearing of the appeal, variance, or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a

reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

6. Additional Public Notice

The applicant shall place one (1) sign on the property for which an appeal or variance is requested. Said sign shall be provided by the Code Enforcement Officer at the time the appeal or application for variance is filed. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five (5) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.

7. Referral to County Planning Board

A copy of the complete variance application and supporting documents shall also be transmitted to the County Planning Board for review when required either under Article 12-B, Sections 239-1 and -m of the General Municipal Law, or Section 283-a of the New York State Town Law.

8. Time of Decision

The Board of Appeals, providing SEQR has been complied with, shall decide upon the appeal or variance within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

9. Filing of Decision and Notice

The decision of the Board of Appeals on the appeal or variance shall be filed in the Office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

10. The CEO shall, upon receipt of the notice of approval and upon application by the applicant, issue the appropriate zoning permit or such other approval permitted by the variance, subject to all conditions imposed by the Zoning Board of Appeals.

B. Appeals Procedures

1. An appeal, including any request for an interpretation or determination, and specifying the grounds for the appeal, shall be filed with the officer, or body, from whom the appeal is taken and with the Board of Appeals. All appeals and applications shall be made to the Board of Appeals within sixty (60) days of the date on which the order, requirement, decision or determination appealed from was rendered and shall be on forms prescribed by the Board.
2. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.

3. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official.
4. The officer from whom the appeal is taken shall, within thirty (30) days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Board of Appeals.
5. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
6. If the Board of Appeals determines that a public hearing is necessary, the Board of Appeals shall fix a time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable length of time thereafter. At the time of the hearing, any party may appear in person, by agent or by attorney.
7. The Board of Appeals, providing SEQR has been complied with, shall render a decision on each appeal within sixty-two (62) days of the close of the public hearing on said matter. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
8. Any action by the Board of Appeals shall be stated in writing and communicated to the person bringing the appeal within five (5) business days after the decision has been made.

SECTION 809 MEETINGS, RECORDS AND GENERAL PROCEDURES

- A. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine.
- B. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law.
- C. All votes of the Zoning Board of Appeals shall be taken by roll call. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- D. In accordance with General Municipal Law, Section 980, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- E. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings, provided that funds for such services are made available by the Town Board.
- F. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized

by the Town Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance.

- G. The Town Board may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings, including the reading of the case, public hearing, deliberation, voting and decisions of the Board, These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the Secretary of the Board.
- I. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the Office of the Town Clerk within five (5) business days and shall be a public record.
- J. Rehearings

Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this Ordinance, denies or rejects same, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the same applicant, their successors or assigns, for a period of one (1) year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon the favorable vote of a majority of the Board plus one (1).

SECTION 810 BOARD OF APPEALS OFFICE

The Office of the Town Clerk shall be the office of the Board of Appeals. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by Section 267 of the Town Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.

SECTION 811 LAPSE OF AUTHORIZATION

Any variance or modification of this Ordinance authorized by the Board of Appeals shall be automatically revoked unless a zoning permit or building permit, conforming to all the conditions and requirements established by the Board of Appeals, is obtained within six (6) months of the date of approval by the Board of Appeals and construction commenced within one (1) year of such date of approval.

SECTION 812 VIOLATION OF CONDITIONS OR RESTRICTIONS

- A. Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies.

- B. If applicable and appropriate, and authorized by the Town Board or specified herein, and after ten (10) days notice of the violation and failure to correct such violation, the Code Enforcement Officer may correct any violation of these regulations and charge the responsible party for the costs incurred. If such costs are not paid by the responsible party, the cost shall be added to the yearly tax bill for the owner of the premises on which the violation occurred.

SECTION 812A (Adopted 2/11/2003)

A REVOCATION OF VARIANCES

1. In the event that there is a violation of any condition or restriction of variance prescribed by Zoning Board appeals, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and order the action to correct it. In the event that there is a failure to correct any such violation after 30 days the Code Enforcement officer shall make a written report of same to the Zoning Board of Appeals.
2. In addition to any other enforcement action that may be taken against the property owner for zoning law violation ,in the event that the Zoning Board of Appeals may revoke a variance, pursuant to Town Law 267 (6) ,for failure to comply with any condition or restriction there of.
3. The Zoning Board of Appeals shall schedule a hearing on a minimum of 20 days notice to property owner , to determine whether the property owner's variance should be revoked. The property owner may appear in person and may be represented by counsel.
4. If after the hearing ,the Zoning Board of Appeals decides ,by a majority vote, to revoke the variance ,such action shall be deemed final ,and the variance shall be revoked. The Zoning Board of Appeals shall render it's decision in writing stating the reason (s) for it's action.
5. Upon an adverse decision by Zoning Board of Appeals against the property owner, the property owner may pursue an Article 78 proceeding pursuant to Article 813 of the Zoning Ordinance, Town of Barre.

SECTION 813 ARTICLE SEVENTY-EIGHT (78) PROCEEDING

A. Application to Supreme Court by Aggrieved Persons

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department or board of the Town, may apply to the Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the Board in the Office of the Town Clerk or in the office designated by resolution of the Town Board. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his or her findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court, at special term, shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.

B. Costs of Appeal

Costs shall not be allowed against the Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

C. Preference of Appeal to Court

All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.

D. Power of Court

If, upon the hearing at a special term of the Supreme Court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may specify the decision brought up for review.

SECTION 814 STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 6 and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

B. All Type I actions (6 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.

C. For zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.

Zoning Text Amendments	-	Town Board
Zoning District Amendments	-	Planning Board
Variances	-	Zoning Board of Appeals

D. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the EIS shall be conducted according to Part 617.

E. The local lead agency's review of the action shall include the following procedures and general considerations.

1. If the local lead agency determines that the proposed action is not an exempt action, or an action listed in Section 617.12 of Title 6 NYCRR as a Type II action, and that it will not have significant effect on the environment or local plans, then the local lead agency shall prepare, file and circulate such determination as provided in Section 617.7(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this Article.

2. The local lead agency shall maintain files that are open for public inspection of all notices of proposed actions, draft and final environmental impact statements, and written determinations.

ARTICLE IX

SPECIAL USE PERMITS AND PROCEDURES

SECTION 900 PURPOSE

It is the intent of this Ordinance to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Special Use Permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

SECTION 901 ADMINISTRATION

- A. The Town Planning Board is authorized to review and grant Special Use Permits, as provided for by this Ordinance. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue a special use permit as provided for by this Ordinance.
- B. Uses permitted by special use permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article VII in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- C. A special use permit shall authorize only one particular special use. The special use permit shall expire if the use shall cease for more than one (1) year for any reason.
- D. No person shall be issued a special use permit for a property where there is an existing violation of this Ordinance.

SECTION 902 FINDINGS

- A. The Planning Board may grant a special use permit for uses described in Article VII provided that all requirements and conditions set forth in that Article are complied with.
- B. The Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements or Article VII shall also be maintained, in addition to the following concerns:
 - 1. Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - 2. Off-street parking and loading areas where required, and the noise, glare or odor effects of the special use permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.
 - 3. Refuse and service areas.

4. Utilities as appropriate, with reference to locations, availability and compatibility.
5. Storm drainage, including potential impact on downstream properties.
6. Screening and buffering, with reference to type, dimensions and character.
7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
8. Required yards and other open space.
9. General compatibility with adjacent properties and other properties in the zone district.

SECTION 903 PROCEDURES

- A. All applications for special use permits shall be made in quadruplicate to the Code Enforcement Officer on forms provided by him.
- B. The Code Enforcement Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Planning Board for approval, in accordance with the procedures specified below.
- C. The Code Enforcement Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law.
- D. Each application for a special use permit shall be accompanied by a proposed site plan showing the information required for site plan approval as described in Article X of this Ordinance.
- E. Public Hearing
 1. Prior to taking action on an application for a special use permit, the Planning Board shall conduct a public hearing on the proposed request. Said hearing shall be conducted within forty-five (45) days following the receipt of a complete application and supporting documents from the Code Enforcement Officer.
 2. The Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
 3. The notice of the public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing. Such notice shall include sufficient information so as to identify the property involved and the nature of the proposed action.
- F. If the application is required to be transmitted to the County Planning Board under Article 12-B, 239-m of the General Municipal Law, the Planning Board shall not act within the first thirty (30) days following the referral of the application to the County Planning Board unless said Board provides a written reply to the Town within the thirty (30) day period.

- G. The Planning Board shall render its decision, either approving, approving with conditions, or denying the special use permit, within forty-five (45) days after the public hearing unless an extension is mutually agreed upon by the Planning Board and the applicant.
- H. In approving an application, the Planning Board may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the Town's Comprehensive Plan and its principles of land use and development, and to protect the health, safety or general welfare of the public.
- I. If an application is approved by the Planning Board, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Planning Board and he shall issue the permit applied for in accordance with the conditions imposed by the Board.
- J. If any application is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- K. The Code Enforcement Officer shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Planning Board in approving the permit. If the Code Enforcement Officer shall determine that the conditions are not in compliance with the permit, the Code Enforcement Officer shall nullify the Special Use Permit and set forth the procedures and requirements for re-establishing the use. The use may not be operated until a new application is submitted and approved.

ARTICLE X

SITE PLAN REVIEW

SECTION 1000 PURPOSE

The intent of this section is to set forth additional general standards applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Ordinance.

SECTION 1001 APPLICATIONS

All applications for zoning permits, zoning variances, or special use permits,(except those for one and two family dwellings and their permitted accessory uses, any addition to a single family dwellings, or general farming uses,) shall be accompanied by a site plan. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of the Ordinance have been met.

SECTION 1002 PROCEDURE

- A. A pre-application conference may be held between the Planning Board and applicant to review the basic site design concept and to determine the information to be submitted with the site plan.

- B. Each application for a building permit, variance or special use permit for any structure, building or use other than one or two family dwelling, their permitted accessory use, any addition to a single family dwelling or general farming use, shall be referred to the Town Planning Board for Site Plan Review. The application shall be made to the Planning Board by filing it with the Code Enforcement Officer. The Code Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting. The applicant may wish to attend the Planning Board meeting to answer questions concerning the application.

- C. Within forty-five (45) days of receipt of the application or sixty (60) days in cases when the application shall be referred to the County Planning Board, the Planning Board shall render a decision to approve, approve with conditions, or deny the site plan, and shall forward the decision to the Code Enforcement Officer. Any extension of this forty-five (45) day period may be granted upon consent of both the applicant and the Town Planning Board. If the Planning Board fails to act within the forty-five day period or the extension period that has been granted, the site plan shall be considered approved.

- D. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Town Clerk and shall be mailed to the applicant.

SECTION 1003 APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information, if necessary, to complete its review.

A. Plan Checklist for all Site Plans:

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
2. North arrow, scale and date.
3. Boundaries of the property plotted to scale.
4. Existing watercourses and bodies of water.
5. Location of any slopes of five percent (5%) or greater.
6. Existing and proposed grading and drainage.
7. Location, proposed use, and height of all buildings and site improvements including culverts, drains, retaining walls and fences.
8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
9. Location of outdoor storage, if any.
10. Description of the method of sewage disposal and location of the facilities.
11. Identification of water source; if well, locate on drawing.
12. Location, size and design and construction materials of all proposed signs.
13. Location and proposed development of all buffer areas, including existing vegetation cover.
14. Location and design of outdoor lighting facilities.
15. General landscaping plan.
16. Copy of property deed and a listing of all deed restrictions.

B. As Necessary, the Planning Board may Require the Following:

1. Provision for pedestrian access, if necessary.
2. Location of fire lanes and hydrants.

3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
4. Other elements integral to the proposed development as considered necessary by the Planning Board.

SECTION 1004 PLANNING BOARD REVIEW OF SITE PLAN

The Planning Board's review of the site plan shall include, as appropriate, the following:

A. General Considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. This includes the maximum feasible redesign of private roads to conform to existing public access and rights of way.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

No use shall be undertaken which eliminates or substantially reduces a significant view or vista from an existing property due to height, bulk or orientation of structure.
5. Adequacy of storm-water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Protection of solar access on adjacent or neighboring properties.
11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
12. Adequacy of on-site refuse storage, including appropriate screening and rodent control measures.

12. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
13. Special attention to the productive use and access with "backlot" areas, indicating present and future intended uses.
14. Consistency with the general intent of the Town's Comprehensive Plan.

B. Consultant Review

The Planning Board may consult with the Town Code Enforcement Officer, fire commissioners, highway departments, county planning department, and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil and Water Conservation District, the State Department of Transportation and the State Environmental Conservation.

C. Optional Public Hearing

The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the complete application and shall be advertised in the official newspaper of the town at least ten (10) days before the public hearing. If a public hearing is held, a decision on the site plan shall be rendered within forty-five (45) days after the public hearing.

D. Additional Public Notice

If the Planning Board determines that a public hearing shall be held, the applicant shall place one (1) sign on the property for which site plan review is requested. Said sign shall be provided by the Code Enforcement Officer. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five (5) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.

E. Action on Site Plan

1. The Planning Board may:
 - a) Grant final approval of the Site Plan;
 - b) Disapprove the Site Plan; or
 - c) Conditionally approve the Site Plan.
2. If the Planning Board grants final approval of the Site Plan, the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original and one copy of the final site plan. Once signed, the Planning Board shall forward the Mylar and site plan to the CEO. The CEO shall issue a zoning permit to the applicant if the project conforms with all other applicable requirements and permits.

3. If the Planning Board disapproves the Site Plan, the Planning Board shall so inform the CEO and the applicant. The Code Enforcement Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
4. If the Planning Board conditionally approves the Site Plan, the site plan initially submitted shall be considered to be the preliminary site plan, and the applicant may prepare his final detailed site plan and submit it to the Planning Board for approval. If more than six (6) months has elapsed between the time of the Planning Board's report on the preliminary site plan and the submission of the final site plan, and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

SECTION 1005 APPLICATION FOR FINAL DETAILED SITE PLAN APPROVAL

- A. The final detailed site plan shall conform substantially to the preliminary site plan that has received conditional (preliminary) site plan approval. It shall incorporate any revisions or other features that may have been recommended by the Planning Board during the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval:
 1. Detailed sizing and final material specification of all required improvements.
 2. An estimated project construction schedule.
 3. A detailed plan identifying all lands, easements and rights-of-way which shall be commonly owned with the identification of the association responsible for said ownership, the method of managing commonly owned properties and requiring that the officers of said association shall be identified to the CEO in writing on an annual basis.
 4. Information specifying the materials to be used and information as to the character of the exterior design.

SECTION 1006 ACTION ON THE DETAILED FINAL SITE PLAN APPLICATION

- A. Within forty-five (45) days of the receipt of a complete application for final site plan approval, the Planning Board shall render a decision to the applicant and the CEO.
- B. Upon approval by all involved agencies, an application for final site plan approval by the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original Mylar and one copy of the final site plan. Once signed, the Planning Board shall forward the Mylar and site plan to the CEO. The CEO shall issue a zoning permit to the applicant if the project conforms with all other applicable requirements and permits.
- C. Upon disapproving an application for a final site plan, the Planning Board shall so inform the CEO and the applicant. The Code Enforcement Officer shall deny a zoning permit to the applicant.

The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

SECTION 1007 SUPPLEMENTAL REGULATIONS PERTAINING TO SITE PLAN APPROVAL

A. Expiration of Site Plan Approval

Such site plan approval shall automatically terminate one (1) year after the same is granted unless significant work has been done on the project.

B. Reimbursable Costs

Reasonable costs incurred by the Town for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule.

C. Performance Guarantee

1. No zoning permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Planning Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the CEO, Town Engineer, Planning Board and Town Attorney.
2. The Planning Board shall have the option of requiring a performance bond or other financial guarantee in an amount sufficient to restore the property to its original condition if the applicant fails to comply with the conditions of the Site Plan approval.

D. Inspection of Improvements and Development

The CEO shall be responsible for the overall inspection of site improvements, including coordination with the Town officials and agencies, as appropriate. No Certificate of Occupancy shall be granted prior to a final inspection and determination of conformity to the site plan and New York State Building Code.

E. Integration of Site Plan Approval Procedure with Other Planning Board Approvals

Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedures or other requirements of this Ordinance, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this Section with the procedural and submission requirements for such other compliances. In any case, all state permits and local land use control approvals shall be procured prior to the issuance of a Buildings Permit for a development project.

F. Conflicts

If any conflicts exist between this site plan review procedure and other land use controls of the Town, this Section shall apply.