

**1 GENERAL**

**100 Legal Framework**

**1001 TITLE**

1001.A This is Barre City's *Unified Development Ordinance* and constitute the city's zoning and subdivision regulations.

**Comment [BS1]:** Equivalent to Paragraph 1.1.01 of adopted zoning.

**1002 AUTHORITY**

1002.A Barre City has adopted this ordinance in accordance with and as authorized by the *Vermont Municipal and Regional Planning and Development Act*, 24 VSA Chapter 117.

**Comment [BS2]:** Equivalent to Paragraph 1.1.02 of adopted zoning.

**1003 PURPOSE**

1003.A This ordinance implements the goals and policies of the *Barre City Plan* and the *Vermont Municipal and Regional Planning and Development Act*. It is intended to:

**Comment [BS3]:** Expands upon Paragraph 1.4.01 of adopted zoning.

- (1) Provide for orderly and coordinated development;
- (2) Ensure that land use and development will not adversely impact public health, safety and welfare;
- (3) Guide land use and development in a manner that is consistent with **smart growth principles**;
- (4) Promote land use and development that maintains or enhances quality of life and community character;
- (5) Protect natural, cultural and historic resources;
- (6) Allow for residential land uses and development as necessary to meet the housing needs of residents;
- (7) Ensure that there will be safe and adequate vehicular, pedestrian and emergency access to and within development sites;
- (8) Ensure the rate of growth does not exceed the existing capacity of, or the city's ability to adequately provide, public services and facilities; and
- (9) Establish sound development and engineering standards that result in well-constructed projects that do not burden the city with unreasonable costs to build, maintain or repair public infrastructure.

**Comment [BS4]:** This term is defined.

**1004 APPLICABILITY**

1004.A Unless specifically exempted in this ordinance (see Subpart 110), all development within Barre City requires a zoning permit or subdivision approval issued in accordance with this ordinance.

**Comment [BS5]:** Equivalent to Paragraph 1.3.01 of adopted zoning but separates out the exemptions into a new chapter.

**1005 RELATIONSHIP WITH OTHER LAWS OR REGULATIONS**

1005.A If any provision of this ordinance is more restrictive than any other law or regulation, the provision of this ordinance will apply and take precedence.

1005.B If any provision of another law or regulation is more restrictive than this ordinance, the provision of this ordinance will be superseded and the more restrictive provision will apply.

**Comment [BS6]:** New section.

**1006 EFFECTIVE DATE**

1006.A Upon adoption by the Barre City Council, this ordinance and any subsequent amendments will take effect in accordance with the procedures established in the *Barre City Charter* and the *Vermont Municipal and Regional Planning and Development Act*.

**Comment [BS7]:** Equivalent to Paragraph 1.7.01 of adopted zoning.

**1007 AMENDMENT OR REPEAL**

1007.A The Barre City Council may amend or repeal this ordinance, in whole or part, at any time in accordance with the procedures established in the *Barre City Charter* and the *Vermont Municipal and Regional Planning and Development Act*.

**Comment [BS8]:** Equivalent to Paragraph 1.7.01 of adopted zoning.

**1008 SEVERABILITY**

1008.A If a court of competent jurisdiction invalidates any provisions of this ordinance, that decision will not affect the validity, application or enforcement of the remaining provisions of this ordinance.

**Comment [BS9]:** Equivalent to Paragraph 1.8.01 of adopted zoning.

**1009 DISCLAIMER OF LIABILITY**

1009.A This ordinance does not create any liability on the part of the city, its officials, agents, employees, or representatives for alleged damages that result from reliance on this ordinance or any lawful administrative action or decision taken under this ordinance.

**Comment [BS10]:** New section.

## 110 Exemptions and Limitations

### 1101 GENERAL EXEMPTIONS

1101.A Landowners do not need to obtain a zoning permit for:

- (1) **Emergency** repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Landowners must obtain a zoning permit for repair or reconstruction beyond the minimum necessary to stabilize and secure the structure.
- (2) **Complete** demolition of a structure or part of a structure not located in the Design Review **or Historic Structure** Overlay District. Partial demolition that poses a threat to public health or safety will be considered a violation subject to the enforcement provisions of this ordinance. [See Section 3008 for general standards for demolition and Subsection 2202.G for standards for demolition of a historic structure.](#)
- (3) **Normal** maintenance and repair of an existing structure other than a sign (for more information on signs see Section 3106\*), including interior alterations to a building, that does not change the:
  - (a) Structure's exterior materials if within the Design Review Overlay District (changes include painting of any unpainted surface and any removal, addition, relocation, resizing or replacement of windows or doors);
  - (b) Structure's exterior dimensions, wastewater generation or use;
  - (c) Amount of floor area associated with an existing non-residential use; or
  - (d) Number of units (residential or non-residential) in the structure.
- (4) **Normal** maintenance and repair of sidewalks and walkways, including replacement or reconstruction within the same footprint as the original.
- (5) **Normal** maintenance and repair of essential services.
- (6) **Landscaping, grading and excavating** associated with:
  - (a) Normal maintenance and repair of roads, driveways, parking areas, sidewalks, walkways, stormwater facilities or essential services (this does not include paving an existing unpaved parking lot or driveway, which does require a zoning permit); and
  - (b) Site improvements that do not result in more than 10 cubic yards of clean **soil** being removed from or brought onto the lot within any calendar year and that do not affect existing drainage patterns on adjacent lots or public rights-of-way.
- (7) **Replacement** or reconstruction of an existing fence or wall that is in the same location, is constructed of the same material, is substantially the same style or design, and is not higher than the original.

**Comment [BS11]:** New exemption.

**Comment [BS12]:** Compare to Paragraph 1.3.01.8 of adopted zoning.

**Comment [BS13]:** Compare to Paragraph 1.3.01.1 through Paragraph 1.3.01.3 of adopted zoning.

Normal maintenance and repair will be defined.

**Comment [BS14]:** Compare to Paragraph 1.3.01.3.d of adopted zoning.

**Comment [BS15]:** New exemption. Essential services is defined.

**Comment [BS16]:** Compare to Paragraph 1.3.02.1.b and 1.3.01.3.d of adopted zoning.

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**Comment [BS17]:** Compare to Paragraph 1.3.03.b of adopted zoning.

- (8) A new fence or wall on a one- or two-family residential lot not within the Design Review Overlay District that [\(see Section 3014 for further guidance on fences and wall, including how to measure height\)](#):
- (a) Is not more than 3 feet tall, if functioning as a retaining wall;
  - (b) Is not more than 4½ feet tall, if located in the front yard;
  - (c) Is not more than 6½ feet tall, if located in the side or rear yard;
  - (d) Does not extend into or obstruct a public right-of-way;
  - (e) Does not interfere with corner visibility or sight distance for vehicular traffic;
  - (f) Does not affect existing drainage patterns on adjacent lots or public rights-of-way;
  - (g) Does not pose a safety hazard;
  - (h) Is not designed to inflict physical harm; and
  - [\(i\)](#) Is installed so that any support posts are to the inside and the “finished” or “good” side faces out.
- (9) [Snow fences installed no earlier than November 1 and removed no later than May 1.](#)
- (10) A fuel tank on a one- or two-family residential lot not within the Design Review Overlay District that:
- (a) Holds not more than 500 gallons;
  - (b) Meets applicable setback requirements for the zoning district; and
  - (c) Is sited, installed and secured in accordance with state and federal regulations.
- (11) Any ground-mounted HVAC system, back-up generator or similar mechanical equipment on a one- or two-family residential lot not within the Design Review Overlay District that:
- (a) Has a footprint that does not exceed 80 square feet;
  - (b) Meets applicable setback requirements for the zoning district; and
  - (c) Is sited, installed and secured in accordance with state and federal requirements.
- (12) An above-ground swimming pool on a one- or two-family residential lot not within the Design Review Overlay District that:
- (a) Does not exceed a horizontal width of 20 feet in any dimension or a depth of 5 feet;
  - (b) Does not have a permanent foundation;
  - (c) Meets applicable setback requirements for the zoning district; and
  - (d) That is installed and secured to prevent unauthorized access.
- (13) An unroofed patio or deck on a one- or two-family residential lot not within the Design Review Overlay District that:

**Comment [BS18]:** Compare to 1.3.03.7 of adopted zoning. Currently fences up to 6 feet and walls up to 3 feet are exempt. This adjusts those numbers and adds additional standards.

Include diagram showing how to measure height of fences and walls.

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**Comment [BS19]:** Equivalent to Section 4.5.06 of adopted zoning.

**Comment [BS20]:** New exemption.

**Comment [BS21]:** New exemption.

**Comment [BS22]:** New exemption.

**Comment [BS23]:** New exemption.

**Comment [BS24]:** Patio and deck are defined.

- (a) Has a footprint that does not exceed 200 square feet; and
  - (b) Meets applicable setback and lot coverage requirements for the zoning district.
- (14) Wheelchair ramps, uncovered entry stairs, or walkways on a one- or two-family residential lot not within the Design Review Overlay District that do not:
- (a) Exceed 6 feet in width;
  - (b) Extend into or obstruct a public right-of-way;
  - (c) Interfere with corner visibility or sight distance for vehicular traffic; and
  - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way.
- (15) Not more than 3 accessory structures not otherwise exempted under this section on any one- or two-family residential lot not located within the Design Review Overlay District, each of which:
- (a) Has a footprint that does not exceed 120 square feet;
  - (b) Is not more than 12 feet tall;
  - (c) Does not have a permanent foundation;
  - (d) Is located at least 5 feet from any other structure;
  - (e) Meets applicable setback requirements for the zoning district; and
  - (f) Is not used as a dwelling unit.
- (16) Outdoor light fixtures on a one- or two-family residential lot not located within the Design Review Overlay District that:
- (a) Have an initial output that does not exceed 3,000 lumens; and
  - (b) Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.
- (17) Signs listed in Section 3106, and street and traffic control signs.
- (18) A solar energy device that:
- (a) Will be installed on and project not more than 10 feet above the surface of a sloped roof; or
  - (b) Will be installed on a flat roof (any roof with a slope of 5% or less).
- (19) A television antenna, radio antenna, satellite dish or similar device used to provide on-site communication service that:
- (a) Is not more than 15 square feet in area, if a dish antenna;
  - (b) Does not extend more than 12 feet above the roofline, if attached to a building;
  - (c) Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure);
  - (d) Meets applicable setback requirements for the zoning district;

**Comment [BS25]:** Compare to Paragraph 1.3.03.7 of adopted zoning.

**Comment [BS26]:** Compare to Paragraph 1.3.03.4 of adopted zoning. This expands the size of the exempt structures but places a limit on the number allowed without a zoning permit.

**Comment [BS27]:** Come back to discussion of how many accessory structures will be allowed.

**Comment [BS28]:** This term is defined.

**Comment [BS29]:** This term is defined.

**Comment [BS30]:** New exemption.

**Comment [BS31]:** Equivalent to 1.3.03.6 of adopted zoning.

**Comment [BS32]:** Exempted by statute (24 V.S.A. § 4413(g) and 24 V.S.A. § 4412(6)).

**Comment [BS33]:** Compare to 1.3.03.5 of adopted zoning.

**Comment [BS34]:** Exempted by statute (24 V.S.A. § 4412(8)).

**Comment [BS35]:** Exempted by statute (24 V.S.A. § 4412(8)).

**Comment [BS36]:** Federal law provides protection for ham radio antennas. Essentially, municipal zoning cannot place restrictions that would prevent ham radio use. This 50-foot exemption is not mandated by law, but is common practice and is considered reasonable accommodation.

- (e) Does not interfere with public safety communications; and
  - (f) Is installed in the least visible location where it can reasonably function.
- (20) An antenna mounted on an existing structure used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes that does not interfere with public safety communications.
- (21) Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.
- (22) Public art that does not:
- (a) Function as a commercial sign;
  - (b) Extend into or obstruct a public right-of-way unless otherwise approved by the city or state, as applicable;
  - (c) Interfere with corner visibility or sight distance for vehicular traffic;
  - (d) Affect existing drainage patterns on adjacent lots or public rights-of-way; and
  - (e) Pose a safety hazard.
- (23) A home occupation that:
- (a) Is located within a dwelling unit;
  - (b) Occupies less than 50% of the habitable floor area of that dwelling;
  - (c) Is carried out by one or more residents of that dwelling;
  - (d) Does not have any non-resident employees working from that dwelling; and
  - (e) Does not have a sign.
- (24) Garage sales, yard sales, tent sales, auctions or similar activities that do not occur on the lot for longer than 4 consecutive days and for more than 20 days in any calendar year.
- (25) Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that do not occur on the lot for more than 20 days in any calendar year and that are limited to not more than 3 items at any given time if displayed outside.
- (26) Use of public or private land for hunting, fishing or trapping in accordance with state regulations. Any structures with permanent foundations associated with such use and facilities supporting such activities such as firing ranges or rod and gun clubs will require a zoning permit.
- (27) Use of public or private land for noncommercial passive outdoor recreation or gardening (any structures with permanent foundations associated with such use may still require a zoning permit).
- (28) Development within public road rights-of-way that is subject to approval from the city or state as applicable.

**Comment [BS37]:** Compare to 1.3.03.5 of adopted zoning.

**Comment [BS38]:** Exempted by statute (24 V.S.A. § 4413(h)(1)). Compare to Paragraph 1.3.03.5 of adopted zoning.

**Comment [BS39]:** New exemption. Public art is a defined term.

**Comment [BS40]:** This addresses Gilber v. Reed questions. Term is defined.

**Comment [BS41]:** Compare to Paragraph 1.3.03.10 of adopted zoning. This exempts a narrower range of home businesses than the adopted zoning.

**Comment [BS42]:** Equivalent to Paragraph 1.3.03.15 of adopted zoning.

**Comment [BS43]:** New exemption.

**Comment [BS44]:** Exempted by statute (24 V.S.A. § 4413(e)). Equivalent to Paragraph 1.3.03.14 of adopted zoning.

**Comment [BS45]:** New exemption.

**1102 DEVELOPMENT WITH A CERTIFICATE OF PUBLIC GOOD**

1102.A Landowners do not need to obtain a zoning permit for development associated with utility, energy or telecommunications infrastructure that receives a Certificate of Public Good from the Public Service Board.

**1103 AGRICULTURE AND SILVICULTURE**

1103.A Landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture or Department of Forests, Parks and Recreation, respectively. The Zoning Administrator may require a landowner to submit a written determination from the applicable state agency as to whether the subject land use activity is a required agricultural or accepted silvicultural practice.

**Comment [BS46]:** Exempted by statute (24 V.S.A. § 4413(d)). Equivalent to Paragraphs 1.3.03.11 and 1.3.03.12 of adopted zoning. We will need to revisit this once the state releases its new ag rules.

1103.B Landowners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:

- (1) Landowners must complete a zoning permit application demonstrating that proposed development qualifies as an exempt farm structure, but they do not have to pay the associated application fee.
- (2) The Zoning Administrator may require landowners to provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed development qualifies as an exempt farm structure.
- (3) Farm structures, other than walls or fences used for farming purposes, must meet the setback requirements for the district unless the applicant provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the district.
- (4) Upon finding that the proposed development qualifies as an exempt farm structure, the Zoning Administrator will issue the landowner a letter informing the landowner that he/she may build and use the structure for farming purposes in accordance with the state's required agricultural practices without a zoning permit, but that he/she must obtain a zoning permit before using the structure for any other purpose.

**1104 COMMUNITY FACILITIES**

1104.A Landowners must obtain a zoning permit, and site plan approval if applicable, for development associated with a community facility, unless otherwise exempted under this ordinance.

**Comment [BS47]:** As per statute (24 V.S.A. § 4413(a)(1)).

1104.B Development associated with a community facility must meet the same standards as comparable types of private development unless the applicant demonstrates that meeting the standard(s) will interfere with the intended function or use of the community facility.

1104.C **Community facilities include:**

- (1) Institutions or facilities owned and operated by the town or state.

**Comment [BS48]:** Added government facilities, educational institutions and religious institutions to use table for clarity.

- (2) Public and private schools or other educational institutions certified by the state.
- (3) Places of worship or religious institutions.
- (4) Public and private hospitals certified by the state.
- (5) Waste management facilities certified by the state.

**1105 GROUP HOMES**

1105.A Landowners do not need to obtain a zoning permit to use a lawful single-family dwelling as a group home that will:

- (1) Not serve more than 8 residents who have a **handicap or disability**;
- (2) Not be located closer than 1,000 feet from another existing or permitted group home as measured from property line to property line; and
- (3) Be operated under state licensing or registration.

1105.B Landowners must obtain a zoning permit for home construction or other associated development to the same extent as would be required if the property was occupied by any household.

**Comment [BS49]:** As per statute (24 V.S.A. § 4412(1)(G)). Recent case law has affected the interpretation of this statutory limitation, and the provision has been adjusted accordingly.

**Comment [BS50]:** This is a defined term (as per state statute).



## 120 Prior Applications, Approvals and Uses

### 1201 PRIOR APPLICATIONS

1201.A The Zoning Administrator and Development Review Board will review applications based on the ordinance in effect at the time the Zoning Administrator determined that the filed application was complete.

### 1202 PRIOR PERMITS AND APPROVALS

1202.A Zoning Permits Issued Prior to Amendment or Adoption of [this Ordinance](#). If the Zoning Administrator lawfully issued a zoning permit before the Barre City Council adopted or amended this ordinance, an applicant will not need a new or amended permit for the project. If such an applicant does not substantially complete the development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the ordinance as in effect at the time of the new application.

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1202.B **Prior Zoning Permits for Phased Projects.** If an applicant received approval for a phased project before the Barre City Council adopted or amended this ordinance, the Zoning Administrator will issue permits for the development as approved irrespective of any change in this ordinance. However, if such an applicant does not substantially complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the ordinance as in effect at the time of the new application.

1202.C **Prior Development Approvals.** If an applicant does not obtain a zoning permit for proposed development, other than a subdivision, that the Development Review Board approved within 12 months of receiving that development approval, the approval will expire and the applicant will need to apply for a new approval under the ordinance as in effect at the time of the new application. [\(Note: An applicant may request a delay in effect for a zoning permit and/or development approval in accordance with Subsection 4203.B.\)](#)

**Comment [BS51]:** Equivalent to Paragraph 14.2.01 of adopted zoning.

1202.D **Lawfully Recorded Subdivision Plats.** If an applicant lawfully recorded an approved subdivision plat in the Barre City land records, that plat will remain valid and will not expire irrespective of any change in this ordinance.

**Comment [BS52]:** Required by statute (24 V.S.A. § 4463(b)).

1202.E **Effect of Change in Ownership.** Zoning permits and development approvals remain valid irrespective of any change in ownership of the property.

### 1203 CHANGE OF USE

1203.A **Change from One Use Definition to Another.** A landowner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same definition in Section 2115 (e.g., a personal service use like a barber shop to a restaurant use like a coffee shop).

**Comment [BS53]:** Compare to Subparagraph 1.3.02.5 of adopted zoning. Language expanded to clarify what constitutes a change of use.

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1203.B **Change within a Use Definition.** A landowner will not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same definition in Section 2115 (e.g., a retail [sales](#) use like a clothing store to a retail [sales](#) use like a home furnishings store). Other development associated with the change of use may require a permit or approval (e.g., new or modified signage).

1204 **EXPANSION OF USE**

1204.A **Nonresidential Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a non-residential use to occupy additional space in a building or on a lot.

1204.B **Residential Uses.** A landowner will not need to obtain a zoning permit to expand a residential use to occupy existing space in the building provided the number of bedrooms will not increase. The landowner must obtain a zoning permit, and any development approvals as applicable, to increase the number of bedrooms in a dwelling unit.

1205 **DISCONTINUED USES**

1205.A **Nonresidential Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to resume the use of a vacant non-residential site or structure if the prior non-residential use has been discontinued for more than 12 months except:

- (1) If the landowner has had to discontinue a non-residential use as result of damage to the structure in which it is housed, the owner may re-establish the use once the structure has been repaired or rebuilt in accordance with Section 1207. If the use is nonconforming, see Section 1302.
- (2) The Zoning Administrator may extend the period of discontinuance for a conforming use to a total of not more than 3 years if the landowner demonstrates that he/she is actively marketing the property or business for sale or lease. If the use is nonconforming, see Section 1302.

1205.B **Residential Uses.** A landowner will not need to obtain a zoning permit to resume the use of a vacant residential structure or unit provided there is no increase in the number of bedrooms in the dwelling unit.

1206 **ABANDONED DEVELOPMENT**

1206.A If the development authorized by a zoning permit is abandoned without being completed, a landowner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to the zoning permit expiring.

1207 **DAMAGED OR DESTROYED STRUCTURES**

1207.A **Action Required Immediately.** A landowner must act promptly to stabilize and secure a structure that was damaged or destroyed by any cause as necessary to protect public health and safety.

**Comment [BS54]:** New provision.

**Comment [BS55]:** New provision. Adopted zoning only speaks to discontinuance of nonconforming uses.

**Comment [BS56]:** Terms are defined.

- 1207.B **Action Required within 6 Months.** Within 6 months of a structure being damaged or destroyed by any cause, a landowner must either:
- (1) Stabilize and secure the structure as necessary to protect the structure from the elements and to protect public health and safety, if the structure will be reconstructed; or
  - (2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion. [\(See Section 3008 for guidance on demolition.\)](#)
- 1207.C **Zoning Permit Required.** Landowners must obtain a zoning permit to repair or reconstruct a damaged or destroyed structure, but they do not have to pay the associated application fee if a complete application for repair or reconstruction is filed within 12 months of the structure being damaged or destroyed.
- 1207.D **Nonconforming Structures.** If a nonconforming structure is damaged or destroyed, a landowner may rebuild and use the structure in accordance with Section 1301 and provided that:
- (1) The structure as reconstructed does not exceed the original floor area; and
  - (2) The structure as reconstructed is not more nonconforming than the original structure; and
  - (3) The landowner submits a complete application for a zoning permit for reconstruction within 12 months of the structure being damaged or destroyed.

**1208 BLIGHTED STRUCTURES**

- 1208.A **Redevelopment Projects.** As part of any project requiring major site plan approval from the Development Review Board, a landowner must rehabilitate, stabilize, remove or demolish any blighted structures located on the subject property.

**Comment [BS57]:** New provision. Blighted structure is defined.

Recommend using the term 'blighted structure' because it is a legally understood term and is the term used by HUD.

130 **Nonconformities**

**Comment [BS58]:** Planning Commission still needs to review this subpart in detail.

1301 **NONCONFORMING STRUCTURES**

1301.A **General.** A nonconforming structure that lawfully existed when the Barre City Council adopted or amended this ordinance may continue to exist unchanged indefinitely.

**Comment [BS59]:** Compare to Paragraphs 4.7.03 and 4.7.04 of adopted zoning. Recommend eliminating Subparagraph 4, 5, 6 & 7 from adopted zoning.

1301.B **Use.** A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any land use allowed in the zoning district.

1301.C **Repair and Maintenance.** A landowner may undertake normal repair and maintenance of a nonconforming structure without a zoning permit in accordance with Paragraph 1101.A(2).

**Comment [BS60]:** Equivalent to Paragraph 4.7.04.1 of adopted zoning.

**Comment [BS61]:** This term is defined.

1301.D **Additions.** The Zoning Administrator may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure provided that the proposed development:

**Comment [BS62]:** Compare to Paragraph 4.7.03 and Paragraph 4.7.05 of adopted zoning. This allows more opportunity for expansion of nonconforming nonresidential structures than adopted zoning.

- (1) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height;
- (2) Will not convert a nonconforming porch, deck or similar feature to enclosed and/or conditioned building space;
- (3) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
- (4) Would not otherwise require a development approval from the Development Review Board.

1301.E **Code or Accessibility Improvements.** The Zoning Administrator may issue a zoning permit for development that would authorize changes to the exterior dimensions of a nonconforming structure, including further encroachments beyond the existing nonconforming building line or height, to the minimum extent necessary to comply with building code, energy code or accessibility requirements.

**Comment [BS63]:** Compare to Paragraph 4.7.04.2 of adopted zoning. This allows for an administrative rather than DRB approval.

1301.F **Damaged or Destroyed Structures.** A landowner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been unintentionally damaged or destroyed by any cause provided that:

**Comment [BS64]:** Compare to Paragraph 4.7.04.3 of adopted zoning. This requires the landowner to apply for a permit within 1 year instead of requiring completion of the work within 2 years like the adopted zoning.

- (1) The landowner submits a complete zoning permit application within 12 months of the damage or destruction occurring; and
- (2) The repair or reconstruction does not change the exterior dimensions of the structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.

1302 NONCONFORMING USES

1302.A **General.** A nonconforming use that lawfully existed when the Barre City Council adopted or amended this ordinance may continue to exist in its current location and configuration unchanged indefinitely.

**Comment [BS65]:** Compare to Paragraph 4.7.02 of adopted zoning.

1302.B **Relocation.** A landowner must not move a nonconforming use from one location to another where it would also be a nonconforming use.

**Comment [BS66]:** Consistent with adopted zoning.

1302.C **Resumption.** A landowner must not resume a nonconforming use that he/she abandoned, discontinued or replaced with another use for more than 12 months. If a nonconforming use is located in a structure that is damaged or destroyed by any cause, the landowner may resume the use once the structure is repaired or rebuilt provided that a complete application for repair or reconstruction is filed within 12 months of the structure being damaged or destroyed.

**Comment [BS67]:** Consistent with adopted zoning.

1302.D **Minor Expansion.** The Zoning Administrator may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to fully occupy space within the associated structure as that structure existed when the use became nonconforming.

**Comment [BS68]:** New provision.

1302.E **Major Expansion.** The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use upon the applicant demonstrating the proposed extension or expansion will not result in greater adverse impacts on the character of the area.

**Comment [BS69]:** Consistent with adopted zoning.

1302.F **Change of Use.** The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature and more compatible with the character of the neighborhood than the existing nonconforming use.

**Comment [BS70]:** Consistent with adopted zoning.

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1303 NONCONFORMING LOTS

1303.A **General.** A nonconforming lot may continue to exist unchanged indefinitely.

1303.B **Merger.** If a nonconforming lot comes into common ownership with one or more contiguous lots, Barre City will not deem the lot merged with the contiguous lot(s) for the purposes of this ordinance (a property owner may choose to merge contiguous lots in accordance with Subsection 4308.C).

**Comment [BS71]:** The default under state statute used to be to require merger, that changed in the mid-2000s to the default being to not require merger. Paragraph 4.8.02 of adopted zoning requires merger. Recommend eliminating that provision.

1303.C **Lot Size.** A landowner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of this ordinance provided that the lot:

**Comment [BS72]:** This is a statutory requirement (24 VSA § 4412(2)). Equivalent to Paragraph 4.8.01 of adopted zoning.

- (1) Is legally subdivided and able to be conveyed separate from any other lot;
- (2) Existed as of the effective date of this ordinance;
- (3) Is at least 1/8 acre (5,445 square feet) in area; and
- (4) Is not less than 40 feet wide or deep.

1303.D **Lot Frontage.** A landowner with a lot that does not meet the minimum lot frontage for the zoning district:

- (1) **May** develop that lot in accordance with all other applicable provisions of this ordinance provided that the lot has access to a public or private street that is maintained year-round over a permanent easement or right-of-way at least 20 feet in width and that access to the lot will conform to the requirements of [Sections 3002 and 3009](#).
- (2) Must not subdivide that lot unless the lot has access to a public or private street that is maintained year-round over a permanent easement or right-of-way at least 50 feet in width and that access to the lots will conform to the requirements of [Sections 3002 and 3305](#).

**Comment [BS73]:** This is a statutory requirement (24 VSA § 4412(3)). Compare to Paragraph 4.2.01 of adopted zoning.

**Comment [BS74]:** These terms are defined.

**1304 CREATION OF A NONCONFORMITY**

1304.A Barre City prohibits any development that would create a nonconformity except that a public project that requires the transfer or taking of land (e.g., street widening) may create a nonconformity.