

## TOWN OF KILLINGTON BANNER ORDINANCE

### SECTION 1. PURPOSE OF ORDINANCE

This ordinance is enacted to establish uniform system for the permitting, regulation and enforcement of temporary banner signs.

### SECTION 2. STATUTORY AUTHORITY

This ordinance is enacted by the Town of Killington Board of Selectmen under the authority it is granted to regulate signs set forth in 24 V.S.A. § 2291(7). This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

### SECTION 3. DEFINITIONS

Adjudicated or Adjudication: Means for a municipal ticket issued pursuant to this Ordinance, the imposition of a civil penalty by the Judicial Bureau or the payment of the waiver fee for the municipal ticket.

Banner: A sign intended to be displayed for a limited time.

Commercial Banner: A banner that advertises or calls attention to special events, promotions, sales or other commercial information associated with a business located on the premises to which the banner is attached.

Decorative Banner: A banner that depicts seasonal or other decorative pictures displays or designs, but does not contain any commercial message or reference or depict any particular product, service, or business.

Free Standing Sign: A sign which is neither attached to nor supported by a building.

Lot: Any contiguous land owned or controlled by a person, and any land contiguous thereto owned or controlled by any affiliate of such person. Parcels of land which have in common one or more points on any boundary or which are divided only by easements or interests consisting of less than fee simple ownership shall be deemed to be contiguous land for the purpose of this definition except that parcels of land which are divided by state or municipal highway rights of way shall not be deemed contiguous.

Lot Owner: The person or persons who is or who are the record owner(s) of the fee title to a lot.

Multi-business Development: A lot containing more than one independently operated business.

On-premises Banner: A banner which advertises or calls attention to a business, profession, commodity, service, or other commercial activity which is carried on, sold, or offered for sale on the same lot on which the banner is located.

Off-premises Banner: A banner which advertises or calls attention to a business, profession, commodity, service, or other commercial activity which is not carried on, sold, or offered for sale on the same lot on which the sign is located.

Person: An individual, partnership, corporation, association, unincorporated association, trustee of a trust, trust, or other entity.

Sign: Any structure, display, devise, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any public highway or other vehicular right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town. Each readable surface shall be deemed to be one sign under this definition.

Sign Area: The area of a flat sign shall be the area within the smallest geometric shape which can be drawn to encompass all the letters, designs and panels which are part of the sign. The area of overhanging sign or free standing sign shall be the total surface area of the sign including all letters, designs, and panels which are part of the sign. Whenever dimensions of a sign are specified, they all include panels but not frames.

Town-Wide Event Banner: A banner that advertises or promotes a town-wide event, such as Winter Carnival, for which the promoter or distributor of the banner provides every business located in the Town of Killington, an equal opportunity to participate.

#### SECTION 4. BANNERS PROHIBITED UNLESS EXPRESSLY PERMITTED

- (A) A banner not expressly allowed by this Ordinance is prohibited.
- (B) It shall be unlawful for any person to erect or display, or to cause to have erected or displayed, a banner within the Town of Killington without first obtaining a permit from the Administrative Officer in accordance with the provisions of this Ordinance unless the banner is specifically exempt from this Ordinance.
- (C) It shall be unlawful for any person to erect or display, or to cause to have erected or displayed, a banner within the Town of Killington contrary to the provisions of this Ordinance.

#### SECTION 5. BANNERS PERMITTED

- (A) Commercial Banner – A person may erect or display a commercial banner for a business on the premises to which the banner is attached subject to the following limitations:
  - (i) A commercial banner shall not be displayed for more than fourteen (14) consecutive days and no more than ten (10) times in any calendar year.
  - (ii) A commercial banner shall not have a sign area that exceeds thirty-two (32) square feet.

- (iii) A commercial banner shall be an on-premises banner and shall not be an off-premises banner.
  - (iv) A building may not have more than two (2) commercial banners attached to it at any time, regardless of the number of independently-operated businesses located in the building.
  - (v) Two commercial banners may be located on or attached to any one side of a building only if no part of one commercial banner is located within thirty (30) feet of the other commercial banner.
  - (vi) Notwithstanding anything elsewhere in this Ordinance, a commercial banner authorized by this Ordinance may display noncommercial content in lieu of any otherwise permitted content.
  - (vii) One or both commercial banners allowed for a building may be attached to a free-standing sign that is otherwise allowed by Section 440 of the Town of Killington Zoning Regulations. Such banners shall be securely attached to the free-standing sign so that the face of the banner is parallel to the face of the free-standing sign.
- (B) Decorative Banner – A person may erect or display on their premises decorative banner(s) which are attached to a pole and do not contain any commercial message and do not exceed ten (10) square feet in size. Approval to erect or display more than five (5) such banners shall require prior review and approval from both the Board of Selectmen and the Planning Commission.
- (C) Town-Wide Event Banner – A person may erect or display a town-wide event banner(s) subject to the following limitations:
- (i) No town-wide event banner shall have a sign area that exceeds eighteen (18) square feet.
  - (ii) The town-wide event shall not be advertised by any town-wide event banner(s) for more than nine (9) days total. Each day that any town-wide event banner is erected or displayed counts against the nine (9) day limitations for that event.
  - (iii) A town-wide event banner shall advertise or promote the event only and shall not advertise, promote, or contain any reference to the products or services of any particular business.
- (D) For purposes of this Section 5, a banner shall be considered one banner although both sides are used to display a message; the sign area limitations provided in this Section 5 shall be the sign area of any one side of the banner.

## SECTION 6. PERMIT APPLICATION AND FEES

- (A) No commercial, decorative, or town-wide event banner shall be erected or displayed without prior permit approval by the Administrative Officer.
- (B) All banner permit applications shall be submitted to the Administrative Officer on a completed form as approved by the Board of Selectmen.
- (C) The Board of Selectmen may adopt by resolution a schedule of application fees for the administration of this Ordinance and may amend such schedule of fees from time to time in the exercise of its sole discretion.
- (D) The application fee may include an appropriate bond to guarantee compliance with this Ordinance. Failure to comply with this Ordinance shall result in the forfeiture of the bond. Such forfeiture shall not prevent the Town of Killington from pursuing any other enforcement actions allowed by law.

## SECTION 7. PROHIBITED TEMPORARY BANNERS

In addition to the provisions of Section 4, the following banners are prohibited:

- (A) A frame, sandwich board type banners.
- (B) Off-premises banner unless approved under Section 5 (C) above.
- (C) Banners that prevent free access to any door, window, or fire escape or create a public hazard.
- (D) Banners that interfere with vehicle sight lines.
- (E) Banners prohibited under Section 440-12 of the Killington Zoning Regulations.

## SECTION 8. PENALTIES AND ENFORCEMENT

- (A) Any person who violates a provision of this civil ordinance shall be subject to civil penalty of up to \$500.00 per day for each day that such violation continues. Each day that a violation continues shall constitute a separate offense under this Ordinance. The Administrative Officer, or designee, of the Town of Killington shall be authorized to act as Issuing Municipal Official to issue and pursue before Judicial Bureau a municipal complaint (“municipal ticket”).
- (B) The Issuing Municipal Official, in the exercise of his or her discretion, may issue a municipal ticket to:
  - (i) The person that owns the property at which the violation occurred,
  - (ii) The person that operates the business or enterprise conducted on the property at which the violation occurred, or
  - (iii) The individual person that is responsible for the occurrence of the violation.

(C) For the first violation of this Ordinance by the alleged offender the Administrative Officer or other Town designee may issue a written warning to the alleged violator.

(D) Civil Penalties – An issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$100.00
Second offense	\$200.00
Third offense	\$400.00
Fourth offense and higher	\$500.00

(E) Waiver Fee – An issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount for any person who declines to contest a municipal complaint and pay the waiver fee:

First offense	\$50.00
Second offense	\$100.00
Third offense	\$200.00
Fourth offense and higher	\$250.00

(F) When a municipal ticket is issued, the determination of whether the alleged offender has any prior offenses for purposes of subsections D and E above shall be made without regard to the passage of time since the adjudication of the prior offense(s) under this Ordinance.

(G) For purposes of subsections D and E above, any and all offenses adjudicated under this Ordinance with respect to the alleged offender shall constitute prior offenses regardless of at which property(ies) in the Town the prior offense(s) occurred.

(H) Other relief – In addition to the enforcement procedures available before the Judicial Bureau, the Administrative Officer is authorized to commence a civil action before the Environmental Court for any purpose authorized by 24 V.S.A. § 1974a, including without limitation, where the penalty for all continuing civil ordinance violations is greater than \$500.00 and/or to seek injunctive relief.

## SECTION 9. SEVERABILITY

If any section, subsection, phrase, or any part of this Ordinance, is found to be invalid by any court of competent jurisdiction, such decisions shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

## SECTION 10. ADOPTION/EFFECTIVE DATE

This Ordinance is hereby adopted by the Selectboard of the Town of Killington on this 21<sup>st</sup> day of April, 2008. This Ordinance shall become effective sixty (60) days after adoption as provided in 24 V.S.A. § 1972(a) unless the Board of Selectmen or the Clerk of the Town of Killington receives a timely petition for a vote on the Ordinance pursuant to the provisions of 24 V.S.A. § 1973(b).