

**HEARING COPY**  
**Town of Killington, Vermont**  
**Zoning Bylaws**



**Proposed Amendments to the Killington Zoning Bylaws as  
Approved by the Killington Planning Commission on January 8, 2020  
With substantial changes made by the Selectboard  
And proposed for Adoption on May 5, 2020**

**Adopted June 25, 1979  
Amended through November 28, 2017**

**TABLE OF CONTENTS**

ARTICLE I - ENACTMENT, INTENT & DEFINITIONS OF ZONING ORDINANCE ..... 1  
SECTION 100 - ENACTMENT.....1  
SECTION 110 - INTENT.....1  
SECTION 120 - DEFINITIONS .....1  
ARTICLE II - ESTABLISHMENT OF ZONING DISTRICTS AND MAP.....10  
SECTION 200 - ZONING DISTRICTS.....10  
SECTION 210 - ZONING MAP .....11  
SECTION 215 - ZONING DISTRICT DESCRIPTIONS.....11  
PUBLIC OPEN SPACE DISTRICT ..... 11  
PUBLIC OPEN SPACE DISTRICT - KILLINGTON SECTION (PD-K)..... 11  
FOREST RESERVE DISTRICT ..... 12  
RESIDENTIAL 1 DISTRICT..... 12  
RESIDENTIAL 3 DISTRICT..... 14  
HAMLET DISTRICT ..... 16  
SKI VILLAGE DISTRICT..... 17  
SKI VILLAGE II DISTRICT ..... 19  
COMMERCIAL DISTRICT ..... 21  
BUSINESS DISTRICT..... 22  
COMMERCIAL/BUSINESS DISTRICT ..... 22  
VALLEY DISTRICT..... 23  
SHERBURNE PASS DISTRICT ..... 23  
FOSTER'S PEAK DISTRICT ..... 24  
SECTION 220 - INTERPRETATION OF DISTRICT BOUNDARIES .....24  
SECTION 230 - APPLICATION OF ZONING BYLAWS.....24  
SECTION 240 - ZONING BYLAWS AND DISTRICTS .....24  
SECTION 300.....34  
SECTION 301 - CONDITIONAL USE - TELECOMMUNICATIONS FACILITIES AND  
TOWERS.....40  
ARTICLE IV GENERAL REGULATIONS.....50  
SECTION 400 NONCONFORMING USES AND NONCONFORMING STRUCTURES...50  
SECTION 402 - PROHIBITED USES.....50  
SECTION 403 - STRUCTURES EXEMPT FROM ZONING PERMITS .....51  
SECTION 404 - MISCELLANEOUS REQUIREMENTS .....51  
SECTION 406 - HOME OCCUPATIONS.....52  
SECTION 407 – SHORT-TERM RENTAL OF DWELLING UNIT.....53  
SECTION 410 - OPEN STORAGE REQUIREMENTS.....54  
SECTION 412 - FRONT SETBACK.....54  
SECTION 414 - LOTS IN TWO OR MORE ZONING DISTRICTS .....54  
SECTION 416 - DWELLING ON LOTS .....54  
SECTION 417 - ACCESSORY DWELLING UNIT .....54  
SECTION 418 - BUILDING COVERAGE, OPEN PORCHES, CARPORTS AND  
GARAGES.....55  
SECTION 420 - LOCATION OF ACCESS DRIVEWAYS.....55  
SECTION 422 - REDUCTION OF LOT AREA .....55

SECTION 424 - REQUIRED AREA OF YARDS.....	55
SECTION 425 - DIVIDED PARCELS .....	56
SECTION 426 - HEIGHT REGULATIONS .....	56
SECTION 427 - LIGHTING .....	57
SECTION 428 - TEMPORARY STRUCTURES .....	58
SECTION 430 - ABANDONMENT OF STRUCTURES .....	58
SECTION 432 – OFF STREET LOADING AND PARKING .....	58
SECTION 436 - SPECIAL PARKING AND LOADING SPACE REQUIREMENTS .....	66
SECTION 440 - SIGNS.....	66
SECTION 450 - LANDSCAPING BUFFER.....	78
SECTION 454 - LAKE SHORELAND AREAS .....	79
SECTION 456 - VALLEY, HAMLET, SHERBURNE PASS, AND COMMERCIAL DISTRICTS -ROUTE 4 ACCESS.....	80
ARTICLE V PLANNED UNIT DEVELOPMENT AND SITE PLAN APPROVAL REVIEW	81
SECTION 500 - PUBLIC NOTICE OF HEARING; SITE PLAN REVIEW AND PLANNED UNIT DEVELOPMENT .....	81
SECTION 505 - PLANNED UNIT DEVELOPMENT APPROVAL .....	81
SECTION 510 –SITE PLAN APPROVAL.....	87
ARTICLE VI - ADMINISTRATION AND ENFORCEMENT .....	92
SECTION 600 – ADMINISTRATIVE OFFICER.....	92
SECTION 605 - ADMINISTRATIVE REVIEW.....	92
SECTION 610 - ZONING PERMITS .....	93
SECTION 615 – ZONING PERMIT FOR DIVISION OF LAND .....	95
SECTION 630 - ENFORCEMENT.....	96
SECTION 640 - CERTIFICATE OF OCCUPANCY OR USE.....	96
ARTICLE VII BOARD OF ADJUSTMENT.....	97
SECTION 700 - APPOINTMENT AND TERM OF THE ZBA .....	97
SECTION 710 - GENERAL POWERS .....	97
SECTION 712 - GENERAL DUTIES .....	97
SECTION 720 - OFFICERS OF THE ZBA.....	97
SECTION 730 - MEETINGS .....	97
SECTION 740 - RULES OF PROCEDURE AND ETHICS .....	97
SECTION 750 - FEES .....	98
SECTION 751 - PUBLIC NOTICE; ZBA .....	98
SECTION 760 - APPEALS TO THE ZBA.....	98
SECTION 761 - TIME FOR FILING.....	98
SECTION 762 - INTERESTED PERSONS.....	98
SECTION 763 - NOTICE OF APPEAL .....	99
SECTION 765 - HEARING ON APPEAL .....	99
SECTION 766 - DECISIONS OF APPEALS .....	99
SECTION 767 - MINUTES AND FINDINGS .....	100
SECTION 770 - SPECIFIC POWERS OF THE ZBA TO GRANT VARIANCES .....	100
ARTICLE VIII- AMENDMENTS AND REPEALS .....	101
SECTION 800.....	101
ARTICLE IX - PUBLIC NOTICE .....	101
SECTION 900.....	101

ARTICLE X - SEVERABILITY AND EFFECTIVE DATE .....101  
SECTION 1000 - SEVERABILITY .....101  
SECTION 1010 - EFFECTIVE DATE OF AMENDMENT OF REPEAL .....101  
SECTION 1012 - REPEAL OF PRIOR ZONING ORDINANCE .....101

## ARTICLE I - ENACTMENT, INTENT & DEFINITIONS OF ZONING ORDINANCE

### SECTION 100 - ENACTMENT

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the "Act," Title 24 V.S.A. Chapter 117, § 4401, et seq., there are hereby established Zoning Bylaws for the Town of Killington which are set forth in the text and maps that constitute these Zoning Bylaws. These Zoning Bylaws shall be known as the "Town of Killington Zoning Bylaws."

### SECTION 110 - INTENT

It is the intent of these Zoning Bylaws to provide for orderly community growth, to further the purposes established in the "Act," Title 24 V.S.A. Chapter 117, § 4302, and to implement the duly adopted Town Plan.

### SECTION 120 - DEFINITIONS

#### 1. General Terms

In the interpretation and use of these Zoning Bylaws, except as defined herein, words and phrases shall be construed according to the commonly approved uses of the language; except that technical words and phrases shall be construed and understood in accordance with commonly accepted technical meanings. All words used in the present tense include the future tense; all words used in plural number include the singular number; all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "used" shall be deemed to also include "designed intended or arranged to be used." The word "Person" includes individual, partnership, association, corporation, company, or organization. The word "Act" shall be considered as though followed by "as amended from time to time." Unless otherwise specified, all distances shall be measured horizontally. Words not specifically defined here shall be used as defined in a Webster's New Collegiate Dictionary no more than 5 years old.

#### 2. Specific Terms

Except as otherwise stated, or as the context may otherwise require, the following words, for the purpose of these Zoning Bylaws, shall be defined as follows:

**Accessory Building:** A Building or Structure subordinate to and customarily incidental to a permitted Principal Building or Structure located on the same Lot or on an adjoining Lot under the same ownership or Planned Unit Development designation.

**Accessory Dwelling Unit:** An efficiency or one-Bedroom apartment that is clearly subordinate ~~and Appurtenant~~ to an owner occupied One-Family Dwelling Unit, and has ~~facilities and~~ provisions for independent living, including sleeping, food preparation and sanitation.

**Accessory Use:** A use of land, Buildings or Structures subordinate to and customarily incidental to a permitted principle use located on the same Lot or on an adjoining Lot under the same ownership or Planned Unit Development designation. An apartment is not an Accessory Use.

**Administrative Officer:** An individual serving a three-year term that has been nominated by the Planning Commission and approved by the Board of Selectmen to administer these Zoning Bylaws.

**Agriculture:** The use of land for raising crops including forest products or animals, and Structures necessary and incidental to the actual carrying on of such use.

~~**Appurtenant:** When used in connection with an Accessory Dwelling Unit, Appurtenant means a Structure located within or having a common wall or an interior four-season connection to a One Family Dwelling unit.~~

**Attic:** The part of a Building directly under the roof with a head room of less than 5 ½ feet over ¾ of the Floor Area. The headroom shall be measured vertically from the top of the Floor or Floor beams to the bottom or the underside of the roof or roof rafters. The Floor Area shall be measured horizontally from the inside of the exterior walls or the underside of the roof or roof rafters at the Floor level. The Attic generally would not have a finished Floor, windows, skylights and/or permanent staircase. The Attic shall not be used for living quarters or otherwise occupied.

**Auto Service Station:** Building or land which is used for sale of motor fuel and oil, with or without motor vehicle accessories, or for lubricating, washing, or servicing vehicles (but not including painting or major repairs.)

**Base Lodge:** A Building located adjacent to or near ski trails containing accessory facilities for ski area operations which is generally open to the public only during such time as is necessary to support recreational skiing activities.

**Basement:** A Story partly or wholly underground. A Basement shall be counted as a Story if the vertical distance between its Floor and Ceiling is at any point 6 feet or over and is more than 4 feet above grade on any given wall.

**Bedroom:** A room in a Dwelling Unit planned and intended for sleeping and is separable from other rooms by a door. An area open to other parts of the Dwelling Unit, such as a Loft, may be used as a Bedroom provided it is clearly marked on all plans and statements required by these Zoning Bylaws. A Loft used as a Bedroom shall count toward total Dwelling Unit Capacity.

**Berm:** Natural or manmade mound increase in elevation above the surrounding grade which is formed of soil, stones, or any other natural material and is used primarily to obstruct views or used for landscaping..

**Board of Selectmen:** The Town of Killington Board of Selectmen.

**Building:** A Structure having a roof (including an Awning or other similar covering, whether or not permanent in nature) and used for the shelter or enclosure of Persons, animals, equipment, or personal property.

**Building Area:** Total of areas taken on a horizontal plane at the main finished grade level of the Principle Building and at the main finished grade levels of any Accessory Buildings, exclusive of uncovered porches, terraces and steps, measured between the exterior faces of walls.

**Building Height:** The exterior vertical perpendicular distance from the lowest point of the finished grade immediately adjoining the Building to the finished Floor level of the highest Floor used as living quarters or used to otherwise accommodate or be occupied by people, or if not designed to be occupied by people, used for the activity proposed and approved for the Building; for residential or non-residential purposes to include balconies and Lofts. For a Building set into a hill or slope, the height shall be measured from the side of the Building having maximum height differential.

**Bulk Plane:** An imaginary inclined plane, rising over a Lot, drawn at a specified angle from the vertical, the bottom side of which is coincidental with a defined line or starting point.

**Ceiling:** The upper horizontal surface of a Story in a Building. The elevation of a Ceiling shall be measured to the bottom of the finished Ceiling material or if none, to the bottom of the Floor joists of the Floor above.

**Commercial/Retail Space:** Commercial, Restaurant and Retail Store area including amenities and attractions that is open and accessible to the general public or is in a public space within a Hotel/Lodge. Commercial/Retail Space does not include convention/ballroom, lobby, back of house, Office or Accessory Uses private to Hotel/Lodge guests.

**Community Center:** Includes public or private meeting hall, place of assembly, museum, art gallery, library, educational facility, dormitory or other similar housing for students and/or staff of an educational facility, and uses of a similar nature. It is not operated primarily for profit.

**Coverage:** That percentage of the Lot Area which may be covered by Buildings and Structures.

**Craft Shop:** A Building or portion thereof where handcrafted articles are produced and/or sold.

**Crawl Space:** That portion of a Building located below the first Floor of a Building and which is less than 6 feet in height from Floor to under beam.

**Day Care Center:** Any place operated as a business or service on a regular or continuous basis whether for compensation or not, which provides for the care, protection and supervision of children under the age of sixteen years outside of their homes for periods of less than 24 hours a day for more than six children.

**District:** A specific portion of the Town as established by the provisions of these Zoning Bylaws and Zoning Map.

**Dormitory Room:** Any room or space in a Hotel/Lodge, or "bed and breakfast" residence which contains beds offered to the public for compensation for transient occupancy and which has furnishing designed to accommodate more than four (4) people.

**Driveway:** The area on a Lot used for vehicular traffic to connect a residence, business, or other use to a public highway right-of-way, public waters or approved private vehicular right-of-way.

**Dwelling Unit:** Any Structure or portion thereof used by one Family and providing housekeeping facilities for that Family.

**Dwelling Unit Capacity:** The number of Bedrooms in a Dwelling Unit shall determine the Dwelling Unit Capacity. A Dwelling Unit shall ~~be deemed to~~ have one Bedroom for every two occupants for which ~~it the Dwelling Unit~~ is intended to provide accommodations. ~~For example, a three-bedroom Dwelling Unit shall have a Dwelling Unit Capacity of six persons.~~ Dwelling Unit Capacity shall be stated in both number of Bedrooms and in number of occupants and labeled as such on all plans and statements required by these Zoning Bylaws.

NOTE: If there is a state or local ~~wastewater~~ permit which requires a different Dwelling Unit Capacity, then that permit shall ~~be taken into consideration when determining~~ determine the capacity of the Dwelling Unit. ~~“Clean Slate” Permit Exemptions only pertain to wastewater systems constructed prior to July 1, 2007 that do not have either a local or state wastewater permit. Existing municipal wastewater permits issued prior to July 1, 2007 remain in effect.~~

**Dwelling Unit Capacity – Short Term Rental:** When used as a Short-Term Rental, the Dwelling Unit Capacity shall be increased by an additional two occupants. For example, a three-bedroom Dwelling Unit shall have a Dwelling Unit Capacity of eight persons ((3 bedrooms X 2) + 2) when used as a Short-Term Rental. A Dwelling Unit subject to a Vermont Land Use (Act 250) Permit shall be limited to the Dwelling Unit Capacity stated on that permit and shall not be increased by an additional two units when used as a Short-Term Rental.

**Family:** One or more persons living together in the same Dwelling Unit and sharing the same kitchen and other facilities as a single housekeeping unit.

**Fast Food Restaurant:** A public eating place whose only or principle business is the sale of foods or beverages for consumption either within the Restaurant Building or on or off the Restaurant premises and whose operation is characterized by (1) service of food or beverage in disposable containers, (2) availability of food or beverages for immediate consumption upon short waiting time from counters, from drive-up windows or from service provided to patrons while in a motor vehicle and (3) insufficient seating facilities within the Restaurant Building for the volume of food sold. Ski area Base Lodge eating areas are specifically excluded from this definition.

**Floor:** The lower horizontal supporting surface of a Story in a Building. The elevation of a Floor shall be measured from the top of the finished Floor materials or, if none, to the top of the Floor joists.

**Floor Area:** The horizontal area of a Floor measured from the inside of finished exterior walls, or if unfinished, the inside of the wall studs or if there are no walls inside of the finished Ceiling of the roof or if unfinished, the inside of the roof rafters.

**Gross Floor Area:** The gross Floor Area of a Building shall be the sum of the total horizontal areas of the several Floors of that Building measured from the interior faces of the exterior walls. Gross Floor Area shall include the area of Basements, cellars, and half-stories, but not Attics or Crawl Spaces as defined herein. Gross Floor Area shall exclude stairwells, elevator shafts, atriums, and other similar holes in a Floor above the lowest Floor level. The area of an outdoor patio or deck of a Restaurant shall be included in the computation of Gross Floor Area if such area is accessible to the public.

**Guest Room:** Any room or space in a Hotel/Lodge or "bed and breakfast" residence offered to the public for compensation for transient occupancy and which has furnishings designed to accommodate not more than four (4) people.

**Home Occupation:** The use of a minor portion of a Dwelling Unit by a resident of that Dwelling Unit, or the use by a resident of an Accessory Building on the same Lot as such dwelling, for an occupation which is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

**Hotel / Lodge:** A hotel, motel or lodge consisting of a Building(s) or portion thereof kept, used, maintained, advertised, or held out to the public to provide overnight accommodations to said public for compensation, by the renting of rooms or a bed within a room. The renting of an entire Dwelling Unit does not constitute a lodging operation; **however, such use may qualify as a Short-Term Rental depending upon the extent of use. See Definition of "Short-Term rental".**

**NOTE: A Short-Term Rental constitutes a "Hotel" for purposes of the State of Vermont Rooms and Meals Tax. See 32 V.S.A. §9202(3).**

**Indoor Sports Recreational Facility:** A fully enclosed Building or area containing facilities for the practice of one or more recreational sports.

**Independently Occupied Unit:** A Structure or portion thereof used by one Family or capable of being independently occupied. A Hotel/Lodge room, One Family Dwelling, Two Family Dwelling, condominium, townhouse and Hotel/Lodge suite of rooms without lockout provisions and only capable of being occupied by one Family or group of individuals at one time shall be one Dwelling Unit. A Hotel/Lodge suite, One Family Dwelling, townhouse, and condominium with provisions for locking off a portion or portions of the residential space to serve more than one Family or group of individuals shall be counted as more than one Dwelling Unit depending on the number of spaces that can be independently occupied.

**Junk Yard:** Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. Junkyard also means any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with section

2202 of this title and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Land Development:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any Building or other Structure, or of any mining, excavation or landfill, and any change in the use of any Building or other Structure, or land, or extension of use of land.

**Light Industry:** Any industrial use, including manufacturing, compounding, processing, packing, treatment, or warehousing, which can be carried on in such a way that neither obnoxious or excessive noise nor any smoke, vibration, dust, glare, odors, electrical interference, or heat can be detected at the boundaries of the property on which the Principal Building is located.

**Loft:** Interior area of a residential Building, Hotel/Lodge or other place providing overnight facilities for paying guests and which is open on one or more sides and is one or more Floors above the main Floor. An open stairwell or balcony shall not be considered a Loft provided such area is only used as a corridor or passageway.

**Lot:** Land occupied or to be occupied by a Principal Building and its Accessory Buildings, together with the required open spaces, having not less than the minimum area required for a Lot for the proposed use in the District in which such land is situated.

**Lot Area:** Total contiguous area within the property lines of a Lot, calculated by horizontal projection, but excluding any part thereof lying within the boundaries of a public or non-public vehicular right-of-way, existing or proposed.

**Lot Depth:** The mean difference between the Lot Frontage and the Rear Lot Line measured at the right angles to the Lot Frontage.

**Lot Frontage:** Each division line between any land and a public highway right-of-way or a private vehicular right-of-way existing or proposed for use by a standard- manufactured, licensed motor vehicle.

**Lounge:** A place of business whose primary function is the serving of alcoholic beverages and is a minor portion of a Restaurant or Hotel/Lodge. Entertainment may or may not be allowed.

**Master Plan:** A schematic plan, or set of plans, and narrative statement which is intended to establish and guide the general planning framework for proposed development within a Planned Unit Development, and which shall include a description and designation of existing and proposed land use activity areas, Open Space areas and circulation systems, in accordance with the requirements of Section 240 and Section 505 of the Zoning Bylaws.

**Maximum Coverage:** Land coverage by Structures not including parking lots, roadways, driveways, walkways and other related infrastructure.

**Medical:** This term shall mean a licensed medical doctor, doctor of dental surgery, or doctor of medical dentistry.

**Minimum Lot Area:** The amount of land area set forth in § 240 that must be available for each type of Dwelling Unit and/or other uses. In a PUD, the Minimum Lot Area shall be a measurement of density, meaning that the number of allowed Dwelling Units in a PUD shall be calculated by dividing the land area within the PUD by the “per unit” land area requirement for each type of Dwelling Unit as specified in § 240.

**Multifamily Dwelling:** Building used as living quarters by three or more families living independently of each other.

**Night Club:** A place of business whose primary function is serving alcoholic beverages and providing entertainment.

**Nonconforming Lots or Parcels:** means lots or parcels that do not conform to the present Zoning Bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Zoning Bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303 (13).

**Nonconforming Structure:** means a structure or part of a structure that does not conform to the present Zoning Bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a use improperly authorized as result of error by the administrative officer. 24 V.S.A. § 4303(14).

**Nonconforming Use:** means use of land that does not conform to the present Zoning Bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present Zoning Bylaws, including a use improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(15).

**Nonconformity:** means a Nonconforming Use, Nonconforming Structure, or Nonconforming Lot or Parcel. 24 V.S.A. § 4303(16).

**Office:** Includes services of a professional or Medical nature.

**One Family Dwelling:** Detached Building (including a mobile or manufactured home) used as living quarters by one Family.

**Open Space:** Any parcel or area of land which is set aside, designated, or reserved for public or private use and enjoyment, or for the use and enjoyment of owners and/or occupiers of the land subject to a PUD approval and/or the zoning permits issued pursuant to a PUD approval. Open Space uses may include, but shall not be limited to: conservation, agriculture, wooded areas, wetlands, active and passive recreation areas, plazas and parks. Open Space shall not include streets or roads; building lots; roads, driveways, parking lots or other surfaces designed or intended for vehicular travel. Open Space shall contain no building or development, except one primarily devoted to a purpose for which the Open Space is intended such as but not limited to

swimming, tennis, skiing, golf or other recreation facilities, and minor incidental buildings connected therewith.

**Outdoor Recreation:** Outdoor sports and activities such as skiing, hiking, tennis, golf, horseback riding, fishing, hunting, swimming and similar activities, and Structures necessary to and incidental to the actual carrying on of such activities.

**Parking Space:** A defined space, with dimensions as provided for in Sections 432 (12), located outside of the right-of-way, parking aisle, or Driveway, used for the parking of one motor vehicle, with practical access to the road or right-of-way, and graveled or paved sufficiently to permit year-round use.

**Personal Services:** Includes barber, hairdresser, beauty parlor, shoe repair, laundry, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

**Planned Unit Development:** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirement that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common Open Space, or other standards 24 V.S.A. § 4303(19).

**Principal Building:** A Building in which the main, primary or principal use of the property on which such Building is located is conducted. Attached garages, or carports, open at the sides but roofed, are part of the Principal Building.

**Private Club:** A Building or portion of a Building, or use open to club members and their guests, and not to the general public, and not operated for profit.

**PUD:** A Planned Unit Development pursuant to Section 505 of these Zoning Bylaws.

**Public Assembly Use:** Includes auditorium, theater, public hall, School hall, meeting hall, church and temple. A delineated outdoor area used for similar purposes as an indoor auditorium, theater or public hall.

**Rear Lot Line:** A Lot line opposite and most distant from any Lot Frontage.

**Reasonable Proximity:** A distance not to exceed 1,500 feet.

**Religious Institution:** Includes church, temple, parish house, convent, seminary, retreat house, or other structure for similar religious purposes.

**Restaurant:** A public eating place whose only or primary business is the sale of foods or beverages for consumption primarily within the Restaurant Building or on the Restaurant premises and whose operation is characterized by (1) service by Restaurant employees at the same table or counter at which the food or beverage is to be consumed or (2) self-service from a buffet, salad bar, cafeteria or similar arrangement. Sale of foods or beverages for consumption

off the Restaurant premises may be an incidental portion of the Restaurant operations. Base Lodge eating areas are specifically included in this definition.

**Retail Store:** A Building or other Structure utilized for the sale of goods or services to the general public, a minor portion of which may be used for the sale of pre-prepared food.

**Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia which is used to transmit to and/or receive electromagnetic waves from terrestrial and/or orbital based sources.

**School:** Any School certified by the Vermont Department of Education, including parochial, private and public Schools, colleges and universities.

**Seasonal Public Use:** A use of land, Buildings and/or permanent or Temporary Structures on Land Development for other purposes for concerts, exhibitions, expositions, public and private entertainment, displays, conferences and meetings, demonstrations, chairlift, and gondola rides, and/or competitive or other sporting events. This use shall include related Temporary retail, eating and drinking facilities provided they are all available to spectators and participants only and are open no earlier than one hour prior to the scheduled start of the event and closed no later than one hour after the end of such event on any given day.

**Setback:** The distance from the Lot Frontage or a property line to a Building or Structure, excepting fences, Signs, and stone walls or at grade patios, measured to its nearest wall, porch, or deck; but not to steps or normal roof overhang. Front Setback: Distance between a Building or Structure and any Lot Frontage. Rear Setback: Distance between a Building or Structure and a Rear Lot Line. Side Setback: Distance between a Building or Structure and a property line other than Lot Frontage or a Rear Lot Line. In a PUD, the setbacks listed in § 240 shall be interpreted as the setback requirements for the PUD as a whole and not as the setback requirements for each particular structure within the PUD.

**Shopping Center:** A retail shopping area containing three (3) or more retail tenants in one or more Buildings all situated on one Lot.

**Short-Term Rental:** A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

**NOTE:** The Short-Term Rental of a Dwelling Unit in or of a Building qualifies the Building as a “public building” subject to the jurisdiction of the State of Vermont Division of Fire Safety pursuant to 30 V.S.A. §2730(a)(1)(D).

**Story:** Part of a Building which is between one Floor level and the next higher Floor level, or the ultimate Ceiling above.

**Structure:** An assembly of materials for occupancy or use, including, but not limited to, a Building, mobile home or trailer, swimming pool, tennis courts, billboard, Sign, wall or fence, except a wall or fence on an operating farm.

**Temporary:** Unless otherwise defined or specifically extended by the Planning Commission during PUD or Site Plan Review, shall mean up to 90 days.

**Town:** The Town of Killington, Vermont

**Town Plan:** The Town of Killington Town Plan

**Travel Trailer:** A mobile vehicle designed for short-term occupancy, overnight lodging, or camping purposes, capable of being towed or self-propelled.

**Two Family Dwelling:** Building used as living quarters by two Families living independently of each other.

**ZBA:** The Town of Killington Zoning Board of Adjustment

**Zoning Bylaws:** The Town of Killington Zoning Bylaws adopted by the Town pursuant to the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117 (the "Act").

**Zoning Map:** The official Town of Killington map showing the various Districts that is held on file in the Town Clerk's office.

## ARTICLE II - ESTABLISHMENT OF ZONING DISTRICTS AND MAP

### SECTION 200 - ZONING DISTRICTS

The Town of Killington is hereby divided into the following Zoning Districts as shown on the Town Zoning Map:

- a) PD Public Open Space District
- b) FR Forest Reserve District
- c) R1 Residential 1 District
- d) R3 Residential 3 District
- e) HM Hamlet District
- f) SV Ski Village District
- g) C Commercial District
- h) B Business District
- i) CB Commercial/Business District
- j) VA Valley District
- k) SP Sherburne Pass District
- l) SVII Ski Village II District
- m) FP Foster's Peak District

These Districts are specifically described in Section 215 of these Zoning Bylaws. They are also generally described in the Zoning Map which accompanies these Zoning Bylaws.

However, in case any conflict between a District line described in Section 215 and as shown on the Zoning Map, Section 215 shall be controlling.

### SECTION 210 - ZONING MAP

These Districts are generally located and bounded on the Zoning Map of the Town. This Zoning Map, together with all explanatory material thereon, is hereby adopted by reference as part of these Zoning Bylaws. The official Zoning Map is on file in the Town Clerk's Office.

### SECTION 215 - ZONING DISTRICT DESCRIPTIONS

#### PUBLIC OPEN SPACE DISTRICT

Land and waters in the public ownership and meaning to include all the land and waters within the boundaries of:

1. Calvin Coolidge State Forest; except for lands and waters under long term lease with the owners of the Killington Resort.
2. Gifford Woods State Park and Kent Pond (both sides of Route 100 in the vicinity of Kent Pond and the Gifford Woods camping area);
3. Colton Pond;
4. Les Newell Game Lands (a small parcel located on the northern Town boundary between Town of Killington and Stockbridge);
5. Rutland City Forest, a small parcel in the extreme southwest corner of the Town;
6. Sherburne Recreation Area, west side of River Road adjoining the Town Office Building land;
7. State of Vermont Fish and Game lands along the Ottauquechee River.

#### PUBLIC OPEN SPACE DISTRICT - KILLINGTON SECTION (PD-K)

Land and waters within the Calvin Coolidge State Forest leased to Killington, Ltd. as of September 1, 1987 and land acquired by Killington, Ltd. From the State of Vermont through the 1997 land exchange described as: Beginning at a point in the boundary line between lands of Killington, Ltd. and State of Vermont. Said point marked by a brass disc inscribed "Vt. LS 508" and located near the easterly edge of Snowshed Slope. Thence: N66°21'43"E 2847.42' along other lands of Killington, Ltd. to a point marked by an iron pin. Thence: in a southeasterly direction along a blazed and painted line 695.1' +/- to an iron pin capped "ACF". Thence: In a Northeasterly direction along a blazed and painted line 3523.07' +/- to an angle iron in the C/L of the brook. Thence; In a southeasterly direction along a blazed and painted line 1535.19' to an iron pin capped "ACF". Said line also southerly line of Killington East Residential Development. (State Triangle) Thence: In a southwesterly direction along a blazed and painted line 5890.1' +/- to a point marked by an iron pin capped "ACF". Said line also westerly line of Killington East

Residential Development. Thence: S20°54'26"W 3694.2' along other lands of Killington, Ltd. to a point. Said point located in the Bear Mountain parking Lot. Thence: N39°16'25"W 199.63' along lands of State of Vermont to a point marked by a brass disc inscribed "Vt. LS. 508". Said disc located near the base of Skyepack Quad Chairlift. Thence: N39°16'25"W 1750.10' along the lands of State of Vermont to a point marked by a brass disc inscribed "Vt. LS 508". Said disc located near the northern edge of Bear Claw Trail. Thence: N34°16'50"W 2582.50' along lands of the State of Vermont to a point marked by a brass disc inscribed "Vt. LS 508". Said disc located near the Skyship Lift (2nd Section). Thence: N34°35'05"W 2589.70' along lands of State of Vermont to the place of beginning. Less 132 acres of land contained in the Foster's Peak District.

### FOREST RESERVE DISTRICT

All lands not in any other District

### RESIDENTIAL 1 DISTRICT

#### Killington Basin Section

Beginning at the most northeasterly corner of lands of the Sherburne Corporation (being a 400-acre parcel conveyed to Sherburne Corporation by the State of Vermont); thence proceeding northerly to a point which is 300 feet easterly of the southerly terminus of the centerline of Terrace Drive; thence proceeding northerly to a point which is 300 feet easterly of the northerly terminus of the centerline of East Lane; thence proceeding northerly to a point which is 300 feet easterly of the southerly terminus of the centerline of Dean Hill Road; thence proceeding northerly to a point which is 300 feet easterly of the southerly terminus of the centerline of Cubs Concourse; thence proceeding northerly, westerly, and southerly, in a line at all times parallel to and 300 feet easterly, northerly, and westerly of the center lines of Cubs Concourse and Dean Hill Road ) portion proceeding southerly from its intersection with Cubs Concourse) to the centerline of Roaring Brook; thence proceeding southerly along the centerline of Roaring Brook to the southerly edge of the Ravine Road right-of-way; thence proceeding in a southerly direction to the northerly line of lands of the Sherburne Corporation (the so-called 400-acre parcel), said line being measured at right angles to the northerly line of the 400- acre, parcel; thence proceeding easterly in the northerly line of lands of the Sherburne Corporation (the so-called 400-acre parcel) to the point of beginning.

#### West Hill Road Section

Beginning at the intersection of a line which is 300 feet easterly of and parallel to the centerline of Killington Road with a line which is 500 feet southerly of and parallel to the centerline of Route 4; thence proceeding easterly in a line which is 500 feet southerly of and parallel to the centerline of Route 4 to the centerline of West Hill Road; thence continuing southeasterly in a line which is 500 feet southwesterly of and parallel to the centerline of Route 4 to the intersection of said line with the easterly line (or a projection thereof) of lands of Robert E. and Deborah A. Burke, formerly known as the Howard and Florence Towne property; thence proceeding northeasterly in said Burke line or projection thereof to the centerline of Route 4; thence proceeding easterly in the centerline of Route 4 to a point which is 1,000 feet easterly of

the Intersection of Route 4 and Spring Hill Road; thence proceeding southerly to a point which is 300 feet easterly of the intersection of the center lines of Rocky Ridge Road and Tanglewood Drive, measured at right angles to the centerline of Tanglewood Drive; thence proceeding southerly in a line which is 300 feet easterly of and parallel to the centerline of Tanglewood Drive to a point which is easterly of the southerly terminus of Tanglewood Drive, measured at right angles to the centerline of Tanglewood Drive; thence proceeding southerly to a point which is 500 feet easterly of the centerline of Killington Road, and 300 feet northerly of the centerline of Roaring Brook, said 300-foot distance being measured along a line which is 500 feet from and parallel to the centerline of Killington Road; thence proceeding northerly and northwesterly in a line which is 500 feet easterly of and parallel to the center line of Killington Road to the northerly line of lands of James and Priscilla Bigelow, or an easterly projection thereof, thence proceeding westerly in the northerly line of James and Priscilla Bigelow or a projection thereof to the centerline of Killington Road; thence proceeding northerly in the center of Killington Road and continuing in the centerline of West Hill Road to the intersection of the center lines of Rocky Ridge Road and West Hill Road; thence proceeding westerly along the northerly property line of Parcel 199 of Map 22 of the Town of Killington Tax Maps (lands of Robert Montgomery) to a point, being the northwestern corner of parcel 199; thence proceeding southerly along the westerly property line of Parcel 199 to a point, being the northeastern corner of Parcel 190 of Map 22 of the Town of Killington Tax Maps (land of Joseph and Barbara Pessel); thence proceeding westerly along the northerly property line of Parcel 190 to a point, being the northwesterly corner of Parcel 193 of Map 22 (lands formerly of Krantz); thence westerly along the northerly property line of said Parcel 193, Parcel 197A, and Parcel 196 (lands of Alpine Ventures, Inc.) and projections of the northerly property line of Parcel 196 to the centerline of Merrill Drive; thence proceeding northerly along the centerline of Merrill Drive to a point which intersects with a line 300 feet northerly of and parallel to the centerline of Killington Road; thence proceeding northerly in a line which is 300 feet easterly of and parallel to the centerline of Killington Road to the point of beginning; excluding Parcel 233A, 163, 164 and 235 of Tax Map 22.

#### School House Road Section

To arrive at the point of beginning, commence at the northernmost corner of the Calvin Coolidge State Forest (lands of the State of Vermont) and proceed from that point in a northerly direction on a line which intersects with the southerly terminus of the center line of School House Road to a point which is the intersection with a line which is 500 feet westerly and northerly of and at all times parallel to the centerline of Killington Road, said point being the point of beginning; thence proceed northerly to the southerly terminus of the centerline of School House Road; thence proceeding northerly along the centerline of School House Road to its intersection with a line which is 500 feet westerly of and parallel to the centerline of Killington Road; thence proceeding southerly and westerly, in a line which is 500 feet westerly and northerly of and at all times parallel to the centerline of Killington Road, to the point of beginning.

#### Anthony Way Section

The land shown on a survey entitled "Parcel in Killington, Vermont - Fernandez" prepared by R.S. Lamberton, Land Surveyor, dated September 4, 1973, said map being recorded

in Map Book 1, Page 80 of the map records in the Town of Killington Land Records. That map is included herein by reference.

#### Bigelow Drive Section

Shall Consist of Parcels 126, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 145 of Tax Map 22 of the Town of Killington Tax Maps.

#### RESIDENTIAL 3 DISTRICT

#### North Sherburne Section

Beginning at the intersection of the northerly line of the Town with a line which is 300 feet westerly of and parallel to the centerline of Route 100; thence proceeding westerly to a point being the northernmost corner of Lot 23, as shown on a survey entitled "Deux Mondes, Inc., Cricket Hill Ext." dated December 30, 1973, said map being recorded March 1, 1974, in Map Book 1, page 55, of the Map Records in the Town of Killington Land Records. That map is included herein by reference; thence proceeding westerly along the northerly line of Lot 23 and continuing along the northerly lines of Lot 22 and Lot 21 a distance of approximately 1352 feet to the northwesterly most corner of Lot 21; thence proceeding southerly along the easterly line of Lot 21 and continuing along the easterly line of Lot 17 a distance of approximately 1293 feet to a point, said point being the northernmost corner of Lot 18 (now or formerly owned by Donald Steere), as shown on a survey entitled "Property of Robert Johnstone IV, Ruth B. Mersch, and Clarence F. Mersch" dated May 20, 1968, this survey map being recorded on May 20, 1968, in the Town of Killington Land Records. Said survey map included herein by reference. Thence proceeding westerly along the northerly line of Lot 18 and continuing along the northerly line of Lot 24, Lot 22, and Lot 21 approximately 1795 feet to a point being the northern most corner of Lot 21; thence proceeding southerly approximately 981 feet along the westerly line of Lot 21, Lot 20, Lot 10 (now or formerly owned by Herbert Usilton) to a point, being the northeasterly most corner of Lot 10; thence proceeding southerly to the point of intersection of the Town line with a line which is 300 feet northerly of and parallel to the centerline of Elbow Road; thence proceeding northerly in the Town line to the point where it peaks; thence proceeding southerly in the Town line to the intersection of the Town line with a westerly projection of the southerly line of Lot 18 as shown on a survey entitled "Barrows-Towne" dated November 24, 1972, said map being recorded December 7, 1972, in Map Book 1, page 16, of the Map Records in the Town of Killington Land Records. That map included herein by reference; thence proceeding easterly along the said line to a point, being the western most corner of Lot 18; thence proceeding easterly along the southerly line of Lot 18, Lot 19, Lot 20, and Lot 21 to a point being the southernmost corner of Lot 21 and Lot 22; thence proceeding easterly to a point on the centerline of Route 100 which is 3000 feet southerly, measured along the said centerline, from its intersection with the centerline of River Road; thence proceeding easterly to a point on the centerline of River Road which is 3000 feet easterly, measured along said centerline, from its intersection with the centerline of Route 100; thence proceeding-northerly at right angles to the centerline of River Road 300 feet; thence proceeding westerly in a line 300 feet northerly of and parallel to" the centerline of River Road and Route 100 to a point of intersection with a line which is 300 feet easterly of and at all times parallel to the centerline of Doubleday Hill Road; thence proceeding northerly in a line which is 300 feet easterly of and at all times parallel to the

centerline of Doubleday Hill Road to a point which is easterly of the terminus of the centerline of the Doubleday Hill Road right-of-way, measured along a line which is perpendicular to the centerline of that roadway at its terminus; thence continuing 300 feet in a projection of said line which is parallel to and 300 feet from Doubleday Hill Road to a point; thence proceeding northerly to a point which is easterly of the centerline of the Winding Way Road right-of-way; thence proceeding northerly to a point which is easterly of the terminus of the centerline of Winding Way Road, measured along a line perpendicular to the centerline of Winding Way Road at its terminus; thence proceeding northerly to a point which is determined by projecting the northerly terminus of the centerline of Rustic Drive in a northerly direction for 300 feet; thence proceeding northerly to a point which is determined by projecting the northerly terminus of the centerline of Bart's Hill Road in a northerly direction 300 feet to a point; thence proceeding northerly to the point of intersection on the Town line of a line which is 300 feet easterly of and parallel to the centerline of Route 100; thence proceeding westerly along the northerly line of the Town to the point of beginning.

#### Killington East Section

Beginning at the northeasterly most corner of the so-called 400-acre parcel conveyed to the Sherburne Corporation by the State of Vermont; thence proceeding northerly in the easterly line of lands of the R-1 District (Killington Basin Section) to the intersection with a line which lies 1500 feet westerly of and at all times parallel to the centerline of Route 4; thence proceeding in a southerly direction in line which is at all times 1500 feet westerly of and at all times parallel to the centerline of Route 4 to a point which lies 2000 feet southerly of the Sherburne Corporation gondola line; thence proceeding southwesterly to the easterly line of the Calvin Coolidge State Forest (lands of the State of Vermont), said point of intersection being 1500 feet northerly of the southeasterly most corner of the Calvin Coolidge State Forest measured along the Calvin Coolidge State Forest's easterly line; thence proceeding in a northerly direction in the easterly line of lands of the Calvin Coolidge State Forest to the State Forest's northeasterly most corner; thence proceeding in a northwesterly direction in the northerly most line of the Calvin Coolidge State Forest to the point of beginning.

#### Lakewood Section

A parcel of land bounded westerly by Route 100 and southerly by the Gifford Woods State Forest (lands of the State of Vermont) being all of the lands easterly of Route 100 which are shown on survey entitled "Property of Alwyn L. And Edna E. Blanchard prepared by Lamberton & Curtis, Land Surveyors, dated 4/29/69," this survey having been recorded on August 29, 1969, in the Town of Killington Land Records.

#### Thundering Brook Section

Beginning at a point in the centerline of Route 4 which is 100 feet easterly, measured along said centerline from the intersection of said Route 4 centerline with the centerline of Spring Hill Road; thence proceeding northerly to the southerly most corner of the lands described in a deed from Donald Zucker to K-28 Corporation dated July [38], 1969, and recorded in Book 24, page 500, of the Town of Killington Land Records; thence proceeding in a northerly direction in the easterly line of said lands 1329 feet to the northerly most corner of said

lands; thence proceeding northerly in the westerly line of lands described in a deed from Donald Zucker to William Green III and Jane M. Green dated July 15, 1969, and recorded in Book 24, page 474A, of the Town of Killington Land Records to the most northerly corner of said lands, the foregoing line is also described on a survey entitled "Plan of Lands formerly of Florence and Oscar Hall, now of Donald Zucker" surveyed by Weston and Calcagni, date August 21, 1967, revised to July 1969, said survey map being recorded on July 17, 1969, in the Town of Killington Land Records; thence proceeding northerly to the intersection of the centerline of TH-10 (Thundering Brook Road) with the centerline of Thundering Brook; thence proceeding northerly at right angles to the centerline of Thundering Brook 1500 feet to a point; thence proceeding westerly in a line 1500 feet northerly of and parallel to TH-10 to the line of land of the State of Vermont (Kent pond and Gifford Woods State Forest); thence proceeding easterly, southerly, westerly, and southerly, following the easterly line of said lands of the State of Vermont to the centerline of Route 100; thence proceeding southerly in the centerline of Route 100 to its intersection with a line which is 500 feet northerly of and parallel to the centerline of Route 4; thence proceeding easterly in a line which is 500 feet northerly of and parallel to the centerline of Route 4 to a point which is 500 feet northerly of (measured at right angles to the centerline of Route 4) the intersection of the centerline of Route 4 with a northerly projection of the easterly line of lands of Robert E. and Deborah A. Burke, formerly known as the Howard and Florence Towne property; thence proceeding southerly to the intersection of the center lines of Route 4 and said northerly projection of Burke's easterly line; thence proceeding easterly in the centerline of Route 4 to the point of beginning.

#### River Road Section

Beginning at the intersection of the centerline of the Ottauquechee River and the centerline of River Road; thence proceeding westerly to the edge of River Road right-of-way being the southeasterly corner of lands of the State of Vermont (the so-called Fish & Game Lands); thence proceeding northerly, westerly, and northerly following the easterly line of lands of the State of Vermont to the southwesterly corner of lands of the Town of Killington (the Killington Municipal Building and recreation area properties) or a westerly projection of the southerly line of that property; thence continuing northerly in the westerly line of the Town of Killington to the Town's northwesterly corner; thence proceeding easterly in the Town's northerly line to the centerline of River Road; thence proceeding at right angles to the centerline of River Road 500 feet to a point; thence proceeding southerly in a line 500 feet easterly of land parallel to the centerline of River Road to a point easterly of the intersection of the center lines of the Ottauquechee River and River Road, said point being measured along a line which proceeds at right angles to the centerline of River Road at the point of intersection; thence proceeding westerly along said line to the point of beginning.

#### HAMLET DISTRICT

#### Sherburne Center Section

Beginning at the intersection of the northerly line of lands of Central Vermont Public Service Corporation substation (or a westerly projection thereof) with a line which is 300 feet westerly of and parallel to the centerline of Route 4; thence proceeding easterly in the northerly line of lands of Central Vermont Public Service Corporation (or a projection thereof) to the

centerline of Route 4; thence proceeding northerly in the centerline of Route 4 to a westerly projection of the southerly line of lands described in a deed from William F. and Jean E. Werely to Herman and Eugenia Veit dated March 15, 1973, and recorded in Book 29, page 485, of the Town of Killington Land Records; thence proceeding easterly in the southerly line of the lands described in that deed (or a projection thereof) to the 1200-foot contour line (meaning the contour interval 1200 feet above the mean sea level); thence proceeding northerly following the 1200-foot contour line to a point easterly of the intersection of the center lines of River Road and the Ottauquechee River, said point being on a line projected at right angles from the centerline of River Road at such point of intersection; thence proceeding westerly to the intersection of the center lines of River Road and the Ottauquechee River; thence proceeding southerly to the intersection of the northerly edge of a right-of-way described in a deed from William and Jane Green to Robert W. Johnstone dated February 11, 1972, and recorded in Book 28, page 111, of the Town of Killington Land Records, with the easterly edge of the River Road right-of-way; thence proceeding in the northerly line of said right-of-way and in the easterly line of lands described in that deed 1546.62 feet to the southerly edge of the right-of-way of Route 4; thence continuing to the centerline of the right-of-way of Route 4; thence proceeding southeasterly in the centerline of Route 4 to the northerly line (or a projections thereof) of lands described in a deed from Charles and Leopoldine Nye to David C. and Ellen R. Buckwalter dated August 12, 1974, and recorded in Book 32, page 283, of the Town of Killington Land Records (being the so-called Buckwalter property); thence proceeding westerly in the northerly line of lands described in that deed (or a projection thereof) to a line which is 300 feet westerly of and parallel to the centerline of Route 4; thence proceeding in a southerly direction 300 feet westerly of and parallel to the centerline of Route 4 to the point of beginning.

#### West Bridgewater Section

Beginning at the intersection of the centerline of Route 4 with the easterly line of the Town of Killington; thence proceeding southerly to the intersection of the Town line with a line which is 500 feet westerly of and parallel to the centerline of Route 4; thence proceeding northerly in a line which is 500 feet westerly of and parallel to the centerline of Route 4 to the northerly line (or a projection thereof) of lands described in a deed from Rene Trudeau to Val Roc Corporation dated August 31, 1973, and recorded in Book 31, page 76 of the Town of Killington Land Records (being the so-called Val Roc Motel property); thence proceeding easterly along the northerly line of lands described in that deed to the centerline of Route 4; thence proceeding at right angles to the centerline of Route 4 to the 1110-foot contour line (meaning the contour interval 1110 feet above mean sea level); thence proceeding southerly following that contour line to the easterly line of the Town; thence proceeding southerly in the easterly line of the Town to the point of beginning.

#### SKI VILLAGE DISTRICT

#### Pico Section

Beginning at a point of the westerly line of the Town of Killington, measured along the Town line 3500 feet southerly from its intersection with the centerline of Route 4; thence proceeding due east 1000 feet to a point; thence proceeding northeasterly to a point which is 300 feet easterly of the southerly terminus of the centerline of Brad Mead Drive; thence continuing in

the same direction to the point of intersection with the easterly line of lands of Charles F. Partridge et al (the so-called Proctor Estate); thence proceeding northerly along the easterly line of lands of Charles F. Partridge to the southwesterly most corner of lands described in a deed from VRC Corporation to Harold L. Herbert and John W. Holland dated January 28, 1973, and recorded in Book 29, page 296, of the Town of Killington Land Records; thence proceeding due east along the southerly line of said lands approximately 1210 feet to the southeasterly most corner; thence proceeding due north along the easterly line of said lands approximately 825 feet (across Old Route 4) to the right-of-way of new Route 4; thence continuing in the same direction across Route 4 to the southeasterly most corner of Parcel No. 2, as described in a deed from VRC Corporation to the Inn at Long Trail, Inc., dated July 15, 1977, and recorded in Book 37, page 88, of the Town of Killington Land Records; thence proceeding due north along the easterly line of said Parcel No. 2 approximately 300 feet to the northeasterly most corner; thence proceeding northwesterly along the northeasterly line of said Parcel No. 2 approximately 800 feet to the northern most corner; thence proceeding northerly to the terminus of the centerline of Old Coach Road; thence proceeding westerly along the northerly line of Lot 65, 53, and 52 of the Robinwood Development to the intersection of the westerly line of the Town; thence proceeding southerly along the westerly edge of the Town to the point of beginning.

#### Killington Basin Section

Beginning at the point of intersection of the centerline of Killington Road with the northern most boundary of the Calvin Coolidge State Forest (lands of the State of Vermont); thence proceeding southeasterly along the northerly boundary of the Calvin Coolidge State Forest and the northerly line of the so-called 400-acre parcel conveyed to the Sherburne Corporation by the State of Vermont to the northeasterly most corner of that 400-acre parcel; thence proceeding on the boundary line between lands of the Sherburne Corporation (the so-called 400-acre parcel) and lands of the State of Vermont southwesterly, westerly, and northerly, following the line of the lands of Sherburne Corporation to the northwesterly most corner of the 400-acre parcel; thence proceeding northeasterly along the northerly line of the Calvin Coolidge State Forest to the point of beginning.

#### Gondola Section

A parcel of land as described in a deed from Joseph D. Sargent to Sherburne Corporation dated November 22, 1961, and recorded in Book 23, page 30, of the Town of Killington Land Records. Excluding, however, from this parcel all lands above the 1360-foot contour line (meaning the contour interval 1360 feet above mean sea level), those lands being included within the Forest Reserve District.

#### Falls Brook Section

Beginning at a point in the southerly line of lands of the Town of Killington, being the southeastern corner of Right 54 (Parcel No. 2 of lands described in a deed from Granville Manufacturing Company, Inc., to Sherburne Corporation dated August 18, 1967, and recorded in Book 23, page 449, of the Town of Killington Land Records); thence proceeding easterly in the southerly line of the Town approximately 6000 feet to the southeastern corner of the so-called Wardwell Lot (Parcel No. 3 of lands contained in the aforementioned deed); thence proceeding

northerly in the easterly line of said Wardwell Lot approximately 2250 feet to the northeasterly corner of the aforementioned Wardwell Lot; thence proceeding westerly in the northerly line of said Wardwell Lot approximately 1200 feet to the northwesterly corner of the aforementioned Wardwell Lot; thence proceeding northerly in the easterly line of lands of the Sherburne Corporation (Parcel No. 4 of lands contained in the aforementioned deed) approximately 3300 feet to the point of intersection with the Juggernaut Trail, thence proceeding in a westerly and southerly direction following the Juggernaut Trail a distance of 2500 feet to a point; thence proceeding westerly approximately 3000 feet to the easterly line of the Calvin Coolidge State Forest (lands of the State of Vermont), said point of intersection being 1500 feet northerly of the southeasterly most corner of the Calvin Coolidge State Forest, as measured along the Calvin Coolidge State Forest's easterly line; thence proceeding southerly along the easterly line of the Calvin Coolidge State Forest to the southeasterly most corner to a point, said point also being the northeastern corner of Right 54 (Parcel No. 2 of lands of the aforementioned deed); thence continuing in the same direction approximately 2250 feet along the easterly line of Right 54 to the point of beginning.

Beginning at a brass cap monument known as "Feno 50" set flush with the ground by the State of Vermont a corner lands now or formerly of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., Now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., as recorded in book-334, page-564 of the Town of Killington Land Records Office, thence turning and running N68°28'06"W along a southerly boundary line of the lands of State of Vermont Calvin Coolidge State Forest being also the north line of said lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., Now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., a distance of 754.48 feet to a brass cap monument known as "Outerlimits" set 6" above the ground by the State of Vermont marking the northwest corner of said lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., thence turning and running S19°58'47"W along an easterly boundary line of said lands of State of Vermont Calvin Coolidge State Forest being also the west line of said lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., a distance of 955.82 feet to a capped iron rebar set flush with the ground (stamped Ryan Downey VT 45808), thence turning and running S70°01'13"E through the lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., Now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., a distance of 744.16 feet to a stone pile marking the southwest corner of said other lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., Now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., and further marking a northwest corner of said lands of Bear Mountain development Corporation, thence turning and running N20°35'41"E along an easterly boundary line of said lands of MTB Killington, LLC, AMSC Killington, LLC and SP II Resort LLC., now known as KILLINGTON/PICO SKI RESORT PARTNERS LLC., a distance of 935.44 feet to the point of beginning. Meaning and intending to describe 16.26 acres of land.

#### SKI VILLAGE II DISTRICT

Beginning at the southerly corner of lands now or formerly Pico Pond Assoc. and the southwest corner of the parcel herein described. Said corner being marked by an iron rod with a yellow cap marked "LS 20 R&F" set flush with the ground under Ramshead chairlift. Thence:

N20°29'20"E 4509.70' along lands now or formerly of Pico Pond Assoc. to a marble post set in the ground. Thence: S68°08'45"E 450.44' along lands of Boxwood Corp. to a point marked by an iron rod. Thence: S68°14'31"E 65.01' along lands of Paula M. Michtom to a point marked by an iron rod. Thence: S68°17'47"E 84.81' along lands of Michtom to a point marked by an iron rod. Thence: S68°08'45"E 409.73' along lands of Michtim and crossing the Killington Road to a point on the easterly side. Thence: S17°110'31"W 1203.44' along other lands of Killington, Ltd. to a point marked by an iron rod. Thence: S16°22'02"W 91.91' along lands of Pinnacle Condominium Assoc. to a point marked by an iron rod. Thence: S16°35'26"W 375.28' along lands of Pinnacle Condominium Assoc. to a point marked by an iron rod. Thence: S18°30'17"W 286.43' along other lands of Killington, Ltd. to a point marked by an iron rod. Thence: S18°30'44"W 256.78' along lands of WZW Mountain Limited Partnership a.k.a. "The Mountain Inn" to a point marked by an iron rod. Thence: S85°22'55"E 199.94' along lands leased to WZW Mountain Limited Partnership to a point marked by an iron rod. Thence: S69°41'16"E 290.02' along the lands leased to WZW and lands leased to Northern Investments, a.k.a. "Cascades" to a point marked by an iron rod. Thence: S00°04'29"E 78.67' along leased to Northern Investments to a point marked by an iron rod. Thence: S00°04'29"E 300.50' along lands leased to Mountain Green Condominiums, a.k.a. "Mountain Green" to a point marked by an iron rod. Thence: S0°04'29"E 616.87' along lands of Killington, Ltd., crossing relocated East Mountain Road to a point marked by and iron pin capped "LS 485". Thence: S50°57'59"E 109.44' along other lands of Killington, Ltd. to a point marked by a iron pin capped "LS 485". Thence: S32°44'44"E 105.11' along other lands of Killington, Ltd. to a point marked by and iron pin capped "LS 485". Thence: S12°40'31"W 125.59' along lands of Grand Summit Resort Properties Inc. a.k.a. "Grand Hotel" to a point marked by and iron pin capped "LS 485". Thence: S72°31'46"W 170.56' along other lands of Killington, Ltd. to a point marked by an iron pin capped "LS 485". Thence: N67°24'59"W 68.23' along other lands of Killington, Ltd. to a point marked by an iron pinned capped "LS 485". Thence S27°53'29"W 187.45' along lands of Killington, Ltd. to a point near the edge of Lower Snowshed Parking Lot. Thence: S63°49'14"W 91.08' to a point to a point. Thence: S41°20'46"E 163.67' parallel to the southern face of the Killington Resort Ctr. to a point. Thence: N89°33'14"E 355.42' along other lands of Killington Ltd. to a point. Thence: 1940' +/- along C/L of stream along other lands of Killington, Ltd. and lands Trail Creek, Ltd. to a point. Thence: S64°00'19"E 238.59' along other lands of Killington, Ltd. to a point marked by an iron pin capped "ACF". Thence: S63°20'26"E 170.00' along lands of Edgemont Condominium Assoc. to a point marked by an iron pin capped "ACF". Thence: S63°14'39"E 166.19' along lands of Edgemont Condominium Assoc. to a point marked by and iron pin capped "ACF". Thence: S63°13'53"E 169.87' along lands of Edgemont Condominium Assoc. to a point marked by and iron pin capped "ACF". Thence: S63°15'34"E 66.97' along lands of Edgemont Condominium Assoc. to a point marked by and iron pin capped "ACF". Thence: S63°03'39"E 42.87' along lands of D.A. Associates, a.k.a. "Fall Line" to a point marked by an iron pin: Thence: S66°21'43"W 2847.42' along other lands of Killington, Ltd. to a point marked by a brass disc inscribed "Vt LS 508", located near the easterly edge of Snowshed Slope. Thence: S66°59'10"W 1819.10' along lands of the State of Vermont to a point marked by a brass disc inscribed "Vt LS 508", located near the base of Superstar Chairlift. Thence S81°51'25"W 485.40' along lands of State of Vermont to a point near the Killington Base Lodge. Thence: N45°23'15"W 142.90' along lands of State of Vermont, parallel to the north edge of the Killington Base Lodge to a point. Thence: N01°50'25"W 207.40' along lands of State of Vermont to a point marked by a brass disc inscribed "Vt LS 508", located near the Snowden Triple Chairlift. Thence: N43°40'55"W 576.10'

along lands of State of Vermont to a point marked by a brass disc inscribed "Vt LS 508" located near the southerly edge of the Perimeter Trail. Thence: N36°43'00"W 1074.10' along lands of State of Vermont to a point marked by a brass disc inscribed "Vt LS 508", located near the westerly edge of Great Bear Trail. Thence: N01°31'55"W 1846.90' along lands of State of Vermont to a point marked by a brass disc inscribed "Vt. LS 508", located near Ramshead Chairlift. Thence: S69°32'00"E 820.00' along lands of Pico Pond Assoc. to the place of beginning. Said parcel to contain 407.86 +/- acres. Bearings are with respect to Mean Geodetic North.

## COMMERCIAL DISTRICT

### Killington Basin Section

Beginning at the intersection of the centerline of Killington Road with the westerly projection of the northerly line of lands of James and Priscila Bigelow; thence proceeding easterly a distance of 500 feet along said projection and northerly line of lands of James and Priscila Bigelow, and in an easterly projection of their northerly line to a point; thence proceeding southerly in a line which is at all times parallel and 500 feet from the centerline of Killington Road to the centerline of Roaring Brook; thence southerly along the centerline of Roaring Brook to the southerly edge of the right-of-way of Ravine Road; thence proceeding in a southerly direction to the northerly line of lands of the Sherburne Corporation (being so-called 400-acre parcel conveyed to Sherburne Corporation by the State of Vermont) said line being measured at right angles to the northerly line of the 400-acre parcel; thence proceeding westerly in the northerly line of the 400-acre parcel and in the northerly line of lands of the State of Vermont (Calvin Coolidge State Forest) to the centerline of Killington Road; thence continuing in the same direction to the northernmost corner of the Calvin Coolidge State Forest (lands of the State of Vermont); thence proceeding from that point in a northerly direction on a line which intersects with the southerly terminus of the centerline of School House Road to a point which is the intersection with a line which is 500 feet westerly of and parallel and northerly of Killington road; thence proceeding in an easterly and northerly direction in a line which is at all times parallel to and 500 feet northerly and westerly of Killington Road to the centerline of School House Road; thence proceeding northerly in the centerline of School House Road to the centerline of Killington Road; thence proceeding along the centerline of Killington Road to the point of beginning.

### Route 4 Section

Beginning at the intersection of a line which is 300 feet northeasterly of and parallel to the centerline of Killington Road with a line which is 500 feet southerly of and parallel to the centerline of Route 4; thence proceeding easterly in a line which is 500 feet southerly .of and parallel to the centerline of Route 4 to the intersection of said line with the centerline of West Hill Road; thence continuing southeasterly in a line which is 500 feet southwesterly of and parallel to the centerline of Route 4 to the intersection of said line with the southerly line (or projection thereof) of lands of Robert E. and Deborah A. Burke, formerly known as the Howard and Florence Towne property; thence proceeding northerly in said Burke line or a projection thereof to the centerline of Route 4; thence proceeding at right angles to the centerline a distance of 500 feet; thence proceeding northerly and westerly in a line which is 500 feet northerly of and

parallel to the centerline of Route 4 to the centerline of Route 100; thence proceeding northerly in the centerline of Route 100 to the intersection of said centerline with the easterly boundary line of Gifford Woods State Park (lands of the State of Vermont); thence proceeding southerly and westerly along the boundary line of Gifford Woods State Park to the point of intersection of the southerly line of Gifford Woods State Park with the centerline of Kent Brook; thence proceeding in a generally southerly direction along the centerline of Kent Brook, and crossing Route 4, to a point 500 feet southerly of Route 4, as measured along the centerline of Kent Brook; thence proceeding northeasterly to the northwesterly most corner of the R-1 District - Anthony Way Section; thence proceeding northerly and easterly in the westerly and northerly line of the R-1 District - Anthony Way Section, to the northeasterly most corner of said R-1 District - Anthony Way Section, said corner being the intersection of the rights-of-way of Killington Road and Anthony Way; thence proceeding to the point of beginning.

### BUSINESS DISTRICT

Beginning at the centerline of the northwesterly terminus of Bigelow Drive; thence proceeding in a southeasterly direction along the centerline of Bigelow Drive to the intersection of the centerline of Bigelow Drive and Killington Road; thence proceeding northerly and westerly along the centerline of Killington Road to the intersection of the centerline of Killington Road and Merrill Drive; thence proceeding in a northeasterly direction 300 feet along the centerline of Merrill Drive and George Street; thence proceeding northerly in a line which is 300 feet easterly of and parallel to Killington Road to a point which is 500 feet southerly of the centerline of the right-of-way of Route 4, measured at right angles to said centerline; thence proceeding to the northeasterly most corner of R-1 District - Anthony Way Section, said corner being the intersection of the rights-of-way of Killington Road and Anthony Way; thence proceeding southerly and westerly along the easterly and southerly line of said R-1 District to the northwesterly most corner; thence proceeding to a point 500 feet southerly of Route 4, as measured along the centerline of Kent Brook; thence proceeding in a generally southerly direction along the centerline of Kent Brook; thence proceeding in a generally southerly direction along the centerline of Kent Brook to the northerly line of lands of Charles F. Partridge et al (the so-called Procter Estate); thence proceeding easterly along the line of lands of Charles F. Partridge et al to a point being the southwest corner of the R-1 District - Bigelow Drive Section; thence proceeding in a northerly direction along said R-1 District to the northwesterly corner of said R-1 District; thence proceeding in an easterly direction along the northerly most line of said R-1 District to a point which is the northeasterly corner of parcel 139 of Town of Killington Tax Map 22; thence proceeding southerly along said parcel 139 to a point which is the intersection of parcel 139 and the terminus of Bigelow Drive; thence proceeding easterly along the terminus of Bigelow Drive to the point of beginning. The Business District shall also contain Parcel 233 A, 163, and 164 on Tax Map 22 and the portion of Parcel 235 on Tax Map 22 which is not included in the Commercial District - Route 4 Section.

### COMMERCIAL/BUSINESS DISTRICT

Consists of Parcels 127, 128, 199, 191, 192, 193, 197, 197A, and 196 of Tax Map 22 of the Town of Killington Tax Maps.

## VALLEY DISTRICT

Beginning at the intersection of the northerly line of lands of Central Vermont Public Service Corporation (CVPSC)(substation)(or a westerly projection thereof) with a line which is 300 feet westerly of and parallel to the centerline of Route 4; thence proceeding southerly 300 feet westerly of and parallel to the centerline of Route 4 to the southeasterly line of lands described in a deed from Joseph D. Sargent to Sherburne Corporation dated 11/22/61 and recorded in Book 23 page 30 of the Town of Killington Land Records, said line also being the westerly line of lands described in a Certificate of non-redemption and writ of possession of the Rutland Superior Court to Corporation El Cerrito dated 12/17/80 and recorded in Book 49 page 29 of the Town of Killington Land Records; thence proceeding southerly in the westerly line of lands of Corporation El Cerrito to a point, said point being the southwestly most corner of lands of Corporation El Cerrito; thence proceeding southeasterly to the northerly line (or a westerly projection thereof) of lands described in a deed from Rene Trudeau to Val Roc Corporation dated 8/31/73 and recorded in Book 31 page 76 of the Town of Killington Land Records (being the so-called Val Roc Motel property) at a point which is 500 feet westerly of the centerline of Route 4 measured along said northerly line (or in a westerly projection thereof) of said Val Roc Corporation lands; thence proceeding easterly in a northerly line of the lands described in that deed (or a projection thereof) to the centerline of Route 4; thence proceeding at right angles to the centerline of Route 4 to the 1300-foot contour line (meaning the contour interval 1300 feet above mean sea level); thence proceeding northerly following the 1300-foot contour line to an easterly projection of the southerly line of lands described in a deed from William F. and Jean E. Wereley to Herman and Eugenia Veit dated 3/13/73 and recorded in Book 29 page 485 of the Town of Killington Land Records; thence proceeding westerly in the southerly line of lands described in that deed (or a projection thereof) to the centerline of Route 4; thence proceeding southerly in the centerline of Route 4 to its intersection with an easterly projection of the northerly line of lands of CVPSC (substation); thence proceeding westerly along that projection and along the northerly line of lands of CVPSC (or a westerly projection thereof) to the point of beginning.

Excluding, however, from the Valley District any lands described in the Skyeship Section of the Ski Village District.

## SHERBURNE PASS DISTRICT

The following parcels combine to make up this District:

1. All of the lands described in a deed from Hazel E. Barker to Pico Peak Ski Resort, Inc., dated April 5, 1972, and recorded in Book 27, page 631, of the Town of Killington Land Records;
2. All of the lands southerly of Route 4 described in a deed from James S. Abatiell to Grover E. and Estelle P. Wright dated May 12, 1950, and recorded in Book 19, page 478, of the Town of Killington Land Records; said lands being bounded to the north by Route 4 and to the south and east by Old Route 4 and the lands described in No. 1 above (Book 27, page 631), and to the south and west by lands of Charles F. Partridge et al (the so-called Proctor Estate);

3. The lands northerly of Route 4 described in a deed from James S. Abatiell to Grover E. and Estelle P. Wright dated May 12, 1950, and recorded in Book 19, page 478, of the Town of Killington Land Records, which are also northerly of Town Highway No. 85 and an easterly projection thereof and which are easterly and southerly of the Appalachian Trail.

### FOSTER'S PEAK DISTRICT

Starting at a point which is located at latitude 43°37'17" and longitude 72°46'57", and is at approximately an elevation of 2,689 feet, proceeding in all directions to the 2,500 foot contour line. Said District to contain 132 +/- acres. This area is identified on the 1971 USGS Maps, Killington Peak, Vermont quadrangle as Shagback Mountain.

### SECTION 220 - INTERPRETATION OF DISTRICT BOUNDARIES

1. District lines described as following or with reference to the center or centerline of a highway shall be construed as following or as being with reference to the centerline of the right-of-way of such highway as it exists on the effective date of these Zoning Bylaws.
2. District lines described as following or with reference to property lines, utility easements, or the lines of survey maps on file in the Town Clerk's Office shall be construed as following or being with reference to such lines of utility easements, as they exist on the effective date of these Zoning Bylaws.
3. District lines indicated as approximately following streams shall be construed as following the center lines of such streams.
4. District lines described as following or with reference to a contour line shall be construed as following or with reference to the line of elevation indicated, as determined on the ground, with reference to such contour line as it exists on the effective date of these Zoning Bylaws.

### SECTION 230 - APPLICATION OF ZONING BYLAWS

There shall be no Land Development except in conformance with these Zoning Bylaws herein specified for the District which it is located.

### SECTION 240 - ZONING BYLAWS AND DISTRICTS

1. Except as otherwise provided in Section 400, a person shall not use any land or Structure within the Town except in conformance with the use provisions of the following tables. Uses in the column designated "Permitted Uses" in any District shall be permitted in that District upon issuance of Zoning Permit by the Administrative Officer or upon PUD approval, whichever is applicable. Uses designated "Conditional Uses" in any District shall be permitted if a Conditional Use Permit is issued by the ZBA. Uses not designated in either the column for Permitted Uses or the column for Conditional Uses for a District are not permitted in that District.

2. Municipal-type uses, including but not limited to Structures, and support facilities (such as Town Office, Town Garage, Fire and Police Departments, municipal collection sites, Municipal sewage treatment, water treatment and distribution facilities and transportation resource with dedicated and exclusive right of way) are permitted uses in all Districts.
3. Except as otherwise provided in Section 400, a person shall not use any land or commence any Land Development in a District unless such use or Land Development conforms to the dimensional requirements applicable to the District where such land is located, as set forth in the following tables.
4. In case of a conflict between the requirements in the following tables and other applicable Sections containing more stringent requirements, such other Sections shall control.

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
240.1 Public Open Space District	None	Outdoor Recreation	Parking lots and Structures which are not in Reasonable Proximity to the use being served; Telecommunications Facilities
240.1.1 Public Open Space District Killington Sec.	Front Setback: Minimum 25' Side Setback: Minimum 50' Rear Setback: Minimum 50'	Outdoor Recreation Public Assembly Use Seasonal Public Use	Telecommunications Facilities.
240.2 Forest Reserve District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 50' Rear Setback: Minimum 50' Maximum Coverage: 5% Minimum Lot Area per One Family Dwelling: 10 Acres Minimum Lot Area per Two Family Dwelling: 10 Acres Minimum Lot Area any other use: 10 Acres  <u>REQUIREMENTS- IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 100' Rear Setback: Minimum 100' Maximum Coverage: 5% Minimum Lot Area: 10 Acres Minimum Lot Area per Dwelling Unit: 5 Acres	<u>USES – NOT IN PUD</u> One Or Two Family Dwellings below 1700'; Agriculture; Outdoor Recreation;  <u>USES – IN PUD</u> One or Two Family Dwellings or any combination thereof below 1700'.	<u>NOT IN PUD</u> Extraction of earth materials, including sand, soil and gravel; Parking lots and Structures which are not in Reasonable Proximity to the use being served; One or Two Family Dwellings above 1700' Telecommunications Facilities.  <u>IN PUD</u> One or Two Family Dwellings above 1700'; Telecommunications Facilities.
240.3 Residential I District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 10% Minimum Lot Area per One Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft.	<u>USES- NOT IN PUD</u> One or Two Family Dwellings; Outdoor Recreation; School; Community Center; Church; Day Care Center.	<u>NOT IN PUD</u> Public Utility; Telecommunications Facilities

240.3 R-1 (Cont'd)	Minimum Lot Area any other use: 40,000 sq.ft.	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 25' Side Setback: Minimum 100' Rear Setback: Minimum 100' Maximum Coverage: 10% Minimum Lot Area: 5 Acres Minimum Lot Area per Dwelling Unit: 20,000 sq.ft.	<u>USES IN PUD</u> One and Two and multi Family Dwellings or any combination thereof.	<u>IN PUD</u> Telecommunications Facilities.
240.4 Residential 3 District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 5% Minimum Lot Area per One Family Dwelling: 3 Acres Minimum Lot Area per Two Family Dwelling: 3 Acres Minimum Lot Area any other use: 3 Acres.	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 25' Side Setback: Minimum 100' Rear Setback: Minimum 100' Maximum Coverage: 5% Minimum Lot Area: 10 Acres Minimum Lot Area per One or Two Family Dwelling unit: 2 Acres	<u>USES- NOT IN PUD</u> One or Two Family Dwellings; Agriculture; Outdoor Recreation; School; Community Center; Church; Day Care Center.	<u>NOT IN PUD</u> Telecommunications Facilities
240.5 Hamlet	Front Setback: Minimum 50' Side Setback*: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 30% Minimum Lot Area per One Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Multifamily Dwelling unit 40,000 sq.ft. Minimum Lot Area any other use: 40,000 sq.ft. *Not applicable to a Building located on a property line with	<u>USES IN PUD</u> One, Two and Multi-Family Dwellings; Hotel/Lodge; Office; Retail Store; Craft Shop; Public Assembly Use; Post Office; Restaurant & Lounge; Personal Services.	<u>IN PUD</u> Auto Service Station; Fast Food Restaurant, ; Telecommunications Facilities	

240.5 Hamlet (Cont'd)	a common side wall to a Building on the same property line.		
240.6 Ski Village District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 10% Minimum Lot Area per One Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft.	<u>USES- NOT IN PUD</u> One and Two Family Dwellings.	<u>NOT IN PUD</u> Telecommunications Facilities.
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 25' Side Setback: Minimum 50' Rear Setback: Minimum 50' Maximum Coverage: 25% Minimum Lot Area: 5 Acres Minimum Lot Area per One or Two Family Dwelling unit: 6,500 sq.ft. Minimum Lot Area per independently occupied unit: 6,100 sq.ft.	<u>USES IN PUD</u> One, Two and Multi-Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Nightclub*; Retail Store; Craft Shop; Light Industry*; Personal Services; Private Club; Public Assembly Use; School; Outdoor Recreation; Recreational facility; Parking Structure; Day Care Center; or any combination thereof.	<u>IN PUD</u> Fast Food Restaurant, Pico and Killington Basin Sections only; Telecommunications Facilities.
	<u>REQUIREMENTS- WHETHER OR NOT IN PUD</u> Setback from Falls Brook and from the Juggernaut Trail: Minimum 50' as measured horizontally	*Nightclub and Light Industry are specifically <u>excluded</u> from the Ski Village-Falls Brook Section.	
240.7 Commercial District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 50' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 40% Minimum Lot Area per One Family Dwelling: 40,000	<u>USES- WHETHER OR NOT IN PUD</u> One, Two, Multi-Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Nightclub (Killington	<u>NOT IN PUD</u> Extractions of earth materials, including sand, soil, and gravel Auto Service Station; Light Industry; Fast Food Restaurant.

240.7 Commercial District (Cont'd)	sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Multifamily Dwelling unit: 40,000 sq.ft. Minimum Lot Area any other use: 40,000 sq.ft.	Basin Section only); Retail Store; Personal Services; Private Club; Post Office; Public Assembly Use; Outdoor Recreation; Day Care Center; School; Or in PUD any Combination or the above.	<u>IN PUD</u> Auto Service Station; Light Industry; Fast Food Restaurant.
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 50' Side Setback: Minimum 50' Rear Setback: Minimum 50' Maximum Coverage: 40% Minimum Lot Area: 5 Acres Minimum Lot Area per Dwelling Unit: 20,000 sq.ft.		
	<u>REQUIREMENTS- WHETHER OR NOT IN PUD</u> Setback from Route 100' Minimum 100' Setbacks from property line State of Vermont, lands Gifford Woods: Minimum 100'		<u>USES - WHETHER OR NOT IN PUD</u> Parking lots and Structures which are not in Reasonable Proximity to the use being served; Telecommunications Facilities
240.8 Business District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 50' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 10% Minimum Lot Area per One Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft. Minimum Lot Area any other use: 40,000 sq.ft	<u>USES-NOT IN PUD</u> One and Two Family Dwellings; Hotel/Lodge having accommodations for not more than 24 overnight guests; Restaurant and Lounge; Office; Day Care Center; Retail Store; Personal Services.	<u>NOT IN PUD</u> None
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 50' Side Setback: Minimum 100' Rear Setback: Minimum 100' Maximum Coverage: 40% Minimum Lot Area: 5 Acres	<u>USES IN PUD</u> One, Two and Multi- Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office;	<u>IN PUD</u> None

240.8 Business District (Cont'd)	Minimum Lot Area per Dwelling Unit: 10,000 sq.ft.	Retail Store; Personal Services; Church; Community Center; Public Assembly Use; Recreational facility; School; Day Care Center; or any combination thereof. Nightclub is specifically <u>excluded</u> from the Business District.	<u>USES- WHETHER OR NOT IN PUD</u> Parking lots and Structures which are not in Reasonable Proximity to the use being served; Telecommunications facilities/towers.
240.9 Valley District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 100' Side Setback: Minimum 200' Rear Setback: Minimum 200' Maximum Coverage: 10% Minimum Lot Area per One Family Dwelling: 10 Acres Minimum Lot Area per Two Family Dwelling: 10 Acres Minimum Lot Area any other use: 10 Acres.	<u>USES - NOT IN PUD</u> One and Two Family Dwellings; Agriculture; forestry:	<u>NOT IN PUD</u> Telecommunications Facilities
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 100' Side Setback: Minimum 200' Rear Setback: Minimum 200' Maximum Coverage: 20% Minimum Lot Area: 10 Acres Minimum Lot Area per Dwelling Unit: 1 Acre Frontage on Rt. 4: Min 1,000'	<u>USES IN PUD</u> One, Two and Multi- Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Retail Store; Personal Services; Craft Shop; Public Assembly Use; Recreational facility; Agriculture; Forestry; or any combination thereof.	<u>IN PUD</u> Telecommunications Facilities
240.10 Sherburne Pass District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 5% Minimum Lot Area per One or Two Family Dwelling: 3 Acres	<u>USES- NOT IN PUD</u> One and Two Family Dwellings.	<u>NOT IN PUD</u> Telecommunications Facilities.

240.10 Sherburne Pass (Cont'd)	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 25' Side Setback: Minimum 50' Rear Setback: Minimum 50' Maximum Coverage: 20% Minimum Lot Area: 5 Acres Minimum Lot Area per Dwelling Unit: 1 Acre  <u>REQUIREMENTS- WHETHER OR NOT IN PUD</u> Setbacks from Appalachian Trail: Minimum 50' Setback from Route 4: Minimum 100'	<u>USES IN PUD</u> One, Two and Multi-Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Retail Store; Personal Services; Ski Museum; Community Center; or any combination thereof.	<u>IN PUD</u> Auto Service Station; Telecommunications Facilities.
240.11 Commercial/Business District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 50' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 40% Minimum Lot Area per One Family Dwelling: 40,000 sq.ft. Minimum Lot Area per Two Family Dwelling: 40,000 sq.ft. Minimum Lot Area any other use: 40,000 sq.ft.  <u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 50' Side Setback: Minimum 100' Rear Setback: Minimum 100' Maximum Coverage: 40% Minimum Lot Area: 5 Acres Minimum Lot Area per Dwelling Unit: 10,000 sq.ft.	<u>USES – NOT IN PUD</u> One and Two Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Retail Store; Personal Services; Day Care Center.  <u>USES IN PUD</u> One, Two and Multi-Family Dwellings; Hotel/Lodge; Restaurant & Lounge; Office; Retail Store; Personal Services; Church; Community Center; Public Assembly Use; Recreational facility; School; Day Care Center; or any combination thereof.  Nightclub is specifically <u>excluded</u> from the Business District.	<u>NOT IN PUD</u> Telecommunications Facilities.  <u>IN PUD</u> Telecommunications Facilities.

240.12 Ski Village II District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback: Minimum 25' Side Setback: Minimum 25' Rear Setback: Minimum 25' Maximum Coverage: 10%	<u>USES- NOT IN PUD</u> Outdoor Recreation Parking facility for Outdoor Recreation	<u>NOT IN PUD</u> Telecommunications Facilities.
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks: Minimum 50' Side Setback: Minimum 50' Rear Setback: Minimum 50' Maximum Coverage: 25% Minimum Lot Area: 10 Acres Minimum Lot Area per Two Family Dwelling: 6,500 sq.ft. Minimum Lot Area per Independently Occupied Unit: 5,000 sq.ft.	<u>USES IN PUD</u> Outdoor Recreation; Public assembly; Seasonal Public Use; Hotel/Lodge; One, Two, and Multifamily Dwellings; Retail store; Restaurant/cafe/deli; Outdoor dining; Temporary retail stands; cinema; Performing arts venue; Arcade; Museum/art gallery; Health care facility; Transportation facility; Parking Structure; Micro- brewery/Lounge; Office; Indoor recreation; Personal Services; Nightclub; Religious Institution.	<u>IN PUD</u> Fast Food Restaurant, Light Industry; Telecommunications Facilities.

Additional development requirements for the Ski Village II District - In PUD:

The purpose of these additional requirements is to allow for orderly and innovative development within the lands within the SVII. The additional requirements are as follows:

1. Development shall include high density, mixed use commercial, Open Space, residential and lodging uses in the core area of new development at the existing Snowshed, Ramshead and K1 Base Lodge areas, and lower density residential development away from the core area of development.
2. Concurrent development of Independently Occupied Units and Commercial/Retail Space is required for PUD and Site Plan Approval reviews during the early stages of development within the Ski Village II District as follows:

- A. For the first 200 Independently Occupied Units approved under PUD and Site Plan Approval review, a permit condition shall be included which requires the applicant to concurrently develop a minimum of one hundred (100) square feet of Commercial/Retail Space per each Independently Occupied Unit. The concurrent development of a minimum amount of the Commercial/Retail Space shall not be required for development in excess of the first 200 Independently Occupied Units. The timing for the physical construction of the Commercial/Retail Space may be phased as follows:
- i. No more than 70 of the first 200 Independently Occupied Units may receive a certificate of occupancy until the foundations of the Site Plan approved Commercial/Retail Spaces are excavated and foundation footings are poured and/or placed, meaning that the physical construction of the Commercial/Retail Space must commence (with excavations and foundation footings poured) before a certificate of occupancy is issued for the 71st Independently Occupied Unit.
  - ii. The Commercial/Retail Space that corresponds with the first 200 Independently Occupied Units shall be construction complete, but the space does not necessarily need to be occupied, before the applicant receives Site Plan Approval and Zoning Permits for more than 600 Independently Occupied Units, meaning that the Commercial/Retail Space must be fully constructed before the applicant receives Site Plan and Zoning Permit approval for its 600th Independently Occupied Unit.
  - iii. Commercial/Retail Space which is located outside the SVII but which is clearly part of the core village area within the Ski Village District - Killington Basin Section may be considered a part of this concurrent development requirement.
  - iv. If the applicant's initial development of Commercial/Retail Space exceeds one hundred (100) square feet per Independently Occupied Unit then the applicant may be credited for this excess space in the future permit applications as concurrent development requirement for the first 200 Independently Occupied Units.
3. The initial Site Plan Approval application in the SVII may include a permit condition that the applicant dedicate and convey an easement to the Town for the future connection of the village core of the new development with the existing Killington Road walkway. The easement shall be of sufficient size to accommodate an eight foot wide walkway and marked for pedestrian use only.

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
240.13 Foster's Peak District	<u>REQUIREMENTS – NOT IN PUD</u> None	USES- NOT IN PUD  Outdoor Recreation	NOT IN PUD
	<u>REQUIREMENTS- WHETHER OR NOT A CONDITIONAL USE</u> *Front Setback: Minimum 50' *Side Setback: Minimum 50' *Rear Setback: Minimum 50' Maximum Coverage: 10% Minimum Lot Area: 10 acres Minimum Lot Area per Independently Occupied Unit: 23,500 sq.ft.		One and Two Family Dwellings; Hotel/Lodge, Public Assembly Use; related roads and utilities.

\* Setback requirements shall be interpreted as Setback requirement for the District as a whole and not as the requirements for each Structure placed in the District.

**ARTICLE III - CONDITIONAL USES**  
**SECTION 300**

A use allowed under Section 240 upon issuance of a Conditional Use Permit by the ZBA shall be allowed only if the ZBA determines, after public notice and public hearing that the proposed use conforms to the following general and specific standards:

1. General Standards - The proposed use shall not result in an undue adverse affect on any of the following:
  - A. The capacity of existing or planned community facilities;
  - B. The character of the area affected as defined by the purpose or purposes of the District within which the project is located, and specifically stated policies and standards of the Town Plan;
  - C. Traffic on roads and highways in the vicinity;
  - D. Zoning Bylaws and ordinances then in effect;
  - E. Utilization of renewable energy resources.

2. Specific Standards:

- A. The proposed use shall comply with all specific provisions of these Zoning Bylaws applicable to it, including but not limited to Lot Area, Setbacks, Parking, Coverage, Intensity of Use, Sign Regulations, Performance Standards and the Standards of Section 510 (1 through 13). However, if one of the following subsections contains a more restrictive requirement for a particular use, such subsection shall control as to that particular use.
- B. Auto Service Stations shall, in addition to all the foregoing, comply with the following:
- i. An Auto Service Station shall not be located within 300 feet of any property line of lands occupied by a School, hospital, library, or Public Assembly Use Building.
  - ii. The minimum Lot Area shall be 60,000 square feet.
  - iii. There shall be a minimum of 150 feet of Lot Frontage.
  - iv. The minimum Lot Depth shall be 150 feet.
  - v. Pumps and other service devices shall be located at least 50 feet from all Lot Frontage and all other property lines.
  - vi. All storage of fuel and oil shall be located at least 50 feet from all Lot Frontage and all other property lines.
  - vii. Repair work, excepting minor servicing, shall be performed inside a Building.
  - viii. A landscaped area at least 25 feet in width shall be maintained along all Lot Frontage, except where such area is crossed by necessary access roads.
  - ix. The open storage of inoperable or retired vehicles shall be screened from public highway view and from view on adjacent lands by fences or coniferous trees or shrubs. This provision is a continuing requirement and responsibility of the owner.
  - x. Entrances and exits, a maximum total number of two shall be construed so as not to cause unreasonable highway congestion or unsafe traffic conditions, and shall be at least 25 feet in width.

- C. Public Utilities shall, in addition to 300 (1) and 300 (2)(A) above, comply with the following:
- i. All Setbacks shall be a minimum of 50 feet when a permitted use of adjacent property (whether upon issuance of a Zoning Permit or in a Planned Unit Development) is One, Two or Multifamily Dwellings.
  - ii. All Structures shall be screened from public highway and the view from adjacent properties where the permitted use (whether by Zoning Permit or Planned Unit Development) is One, Two or Multifamily Dwellings. Such screening shall be by fence or coniferous trees or shrubs.
  - iii. Exterior lighting shall be designed to eliminate direct light or glare directed toward public highways and adjacent properties where the permitted use (whether by Zoning Permit or Planned Unit Development) is One, Two or Multifamily Dwellings.
- D. Extraction of Sand, Soil or Gravel: Any new sand, soil or gravel removal operation, and any extension of a sand, soil or gravel removal operation existing on the effective date of these Zoning Bylaws (except when incidental to construction of a Building on the same property) shall conform to the following:
- i. The standards of 300(1) and 300(2)(A) (excepting Coverage).
  - ii. The removal operation site shall be graded smooth and left in a neat condition. Cut slopes and soil banks shall not be allowed to remain. The operation site shall be fertilized, mulched, and seeded so as to establish a firm cover of grass or other vegetation sufficient to prevent soil erosion.
  - iii. All surface drainage affected by excavation shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property.
  - iv. Before the ZBA issues a permit, the owner of the land shall file (a) an acceptable plan of rehabilitation to insure that upon completion of the excavation operations, the site will be left in a safe, attractive and useful condition in the interest of the public safety and general welfare, and (b) a bond with a good and sufficient surety, the amount of which to be determined by the Board of Selectmen, for the benefit of the Town, sufficient to cover the cost of such rehabilitation.
  - v. Any such rehabilitation shall be completed within two years from the last extraction on a regular basis.
  - vi. There shall be no excavation within 25 feet of a property line.

- E. Fast Food Restaurants shall, in addition to Section 300(1) and 300(2)(A) above, comply with the following:
- i. All parking shall be to the side or rear of the establishment. No parking shall be permitted within the front Setback area along the entire Lot Frontage.
  - ii. Minimum Lot Area Not in PUD shall be 65,000 square feet.
  - iii. There shall be a minimum of 150 feet of Lot Frontage.
  - iv. Minimum Lot Depth shall be 150 feet.
  - v. Drive-thru window stacking lane shall be at least 200 feet long with an emergency exit lane provided. The stacking lane shall be designed in such a way so that no car waiting in the stacking lane shall at no time interfere with the internal circulation, Driveways, public highways or loading zones. The stacking lane shall also conform to Section 432(4) of these Zoning Bylaws.
  - vi. A landscaped median, at least 25 feet in width, shall be maintained along all Lot Frontage, except where such median is crossed by necessary ingress and egress points.
  - vii. A ten-foot landscaped buffer shall be maintained along the perimeter of all parking areas.
  - viii. If a Fast Food Restaurant is proposed on a parcel that bounds an R-1 or R-3 District boundary, then the developer shall provide a fifty-foot landscaped buffer between the edge of the parcel of land with the Fast Food Restaurant and the residential District boundary.
  - ix. The Building shall be in keeping with the scale of surrounding Buildings. Use of clapboard, stone or other native materials for exterior walls and slate, wood, or wood-like roofing material is encouraged. The ZBA shall have final approval of all exterior design elements of the Building.
  - x. Architectural details of all proposed projects shall conform to the standards of this Section. Architectural details which are characteristic of and readily identify a particular chain of commercial establishments and which conform to all the standards of this Section shall be considered signs for the purposes of this Section and shall conform to all of the Zoning Bylaws of Section 440. Such architectural details shall include but are not limited to roof and Building color, distinctive Building shape or design and placement and size of windows and doors.

- xi. In addition to adhering to Section 440 - Signs, all Signs shall be designed with the character of the surrounding uses in mind. A Sign plan shall be part of the overall application and shall be approved by the ZBA.
  - xii. The ZBA may also restrict hours of operation and impose a litter control plan for the proposed Fast Food Restaurant.
- F. Foster's Peak Lodging and Public assembly shall, in addition to Section 300(1)(A) and (2)(A) above, comply with the following:
- i. All utilities shall be placed underground.
  - ii. Exterior lighting, Signs and landscaping shall be designated to create a rustic environment in harmony with the natural setting of the District.
  - iii. Lighting shall not be visible beyond the project boundaries.
  - iv. Building exterior design shall be rustic in nature and shall use natural materials such as stone, wood, or metal.
  - v. Building Height shall not exceed 28 feet.
  - vi. Roadway design and parking shall be the minimum to adequately serve the development.
  - vii. Substantial landscaping with native materials shall be provided.
  - viii. Cutting of natural vegetation and earthwork shall be minimized.
  - ix. Pedestrian paths and amenities shall be provided.
- G. Parking lot or parking Structure which is not in Reasonable Proximity to the use being served shall, in addition to Section 300(1) and 300(2)(A) above, comply with the following:
- i. The parking lot or Structure shall only be permitted if the Planning Commission requires additional parking for a specific project as a result of Site Plan Review or Planned Unit Development Review.
  - ii. The parking shall be appropriately screened from adjacent uses so that noise, dust and other forms of pollution do not unreasonably interfere with the reasonable use and enjoyment of surrounding properties.
  - iii. Lighting shall be downcast and/or shielded to eliminate direct light or glare directed toward public highways or adjacent properties.
  - iv. The owner of the parking lot or Structure shall provide regular and reliable shuttle service between the parking lot or Structure and the use being served unless the appropriate municipal panel determines that this

requirement is satisfied through the use of public transportation with regular and reliable service.

- v. Exterior finishing on the parking Structure shall be compatible with surrounding uses.
- vi. The appropriate municipal panel may require security and/or traffic management personnel to be present at the parking facility during all hours of operation.
- vii. The only permitted Signs shall be directional or for traffic safety.

H. Forest Reserve District One and Two Family Dwellings located above 1,700 feet in elevation shall, in addition to Section 300(1) and 300(2)(A) above, comply with the following:

- i. Site Development Plan. The applicant shall submit a site development plan which shall provide all information necessary to review the proposed project. The plan shall include the location and design of the proposed development, a topographical map showing the elevation of all Structures, physical characteristics of the site including slopes, existing and proposed drainage patterns and forested and clear areas; proposed landscaping, clearing and forest management, road access and Driveway location; location, type and height of all exterior lighting, location and height of utility poles and lines and other information as may be required by the ZBA to conduct a complete review of the project. The ZBA may require computer generated photo simulations of the proposed development showing the project from all public rights-of-way.
- ii. Placement of Structures. Careful consideration shall be given to the location of all proposed Structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams and unique habitats and natural areas). The ZBA may limit or restrict the location of Structures to ensure that development:
  - a) is minimally visible from public roads and properties, and does not stand in contrast to surrounding landscape patterns and features or serve as a visual point;
  - b) is designed so that the height of any Structure does not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the Structure;
  - c) is located and designed so that the height of proposed Structures will not exceed the elevation of any adjacent ridge line.
- iii. Clearing and Landscaping. The ZBA shall consider the location of proposed Structures relative to existing vegetation and may require

additional tree planting and/or limit the amount of clearing in order to protect the visual features of the ridge line. A plan for the maintenance of the remaining and proposed trees may be required.

- iv. **Building Design.** The ZBA shall consider the overall design of new Structures including proposed scale, location, materials and colors. The ZBA may impose conditions related to the overall design to minimize visual impacts such as glare, contrasting colors and intrusive Building materials.
- v. **Erosion Control and Forest Management.** Development shall minimize the removal of native vegetation and shall, as a minimum standard, comply with Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont published by the Vermont Department of Forest, Parks & Recreation. All surface drainage affected by excavation, clearing and other site work shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, road or private or public property.
- vi. **Site Restoration.** All applications for development shall include a plan to restore all disturbed areas of development site.

Permit Conditions: In granting a Conditional Use Permit, the ZBA may attach such additional reasonable conditions and safeguard as it may deem necessary to implement the purposes of Title 24 V.S.A. Chapter 117 and these Zoning Bylaws.

The ZBA shall act to approved or disapprove any requested Conditional Use within the time specified in 24 V.S.A. § 4464 and failure to so act within such period shall be deemed approval.

### SECTION 301 - CONDITIONAL USE - TELECOMMUNICATIONS FACILITIES AND TOWERS.

An applicant using the procedures provided in 30 V.S.A. § 248a shall not be required to obtain Conditional Use approval or a Zoning Permit under these Zoning Bylaws.

#### 1. Definitions

Unless the context indicated otherwise, the following words and terms shall have the following meanings when used in this Section. The definitions in Section 120-2 shall also apply when used in this Section, to the extent not inconsistent with the definitions below. All words used in the plural number include the singular number; all words used in the singular number include the plural number, unless in the natural construction of the wording indicates otherwise:

**Adequate Capacity:** Capacity is considered to be adequate if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the Telecommunications Facility in question, where the call blocking is due to frequency contention at the antenna(s).

**Adequate Coverage:** Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without call being dropped. In case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of Adequate Coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of Adequate Coverage, however, is that location past which signals does not regain.

**Personal Wireless Service:** Commercial mobile services, unlicensed wireless exchange access services. These services include cellular services, personal communications services, specialized mobile radio services and paging services.

**Telecommunications Facility:** means a tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals. 24 V.S.A. § 4303(29).

## 2. Purpose And Intent

The purpose of this Section is to protect the public health, safety, general welfare and to preserve the character and appearance of the Town. This Section shall also:

- A. Serve to protect the scenic, historic, environmental and natural resources of the Town while accommodating the communication needs of residents and businesses by allowing adequate telecommunications services to be developed;
- B. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, removal and collocation of facilities where possible and appropriate;
- C. Minimize tower and antenna proliferation by requiring the sharing of existing Telecommunications Facilities and sites where possible and appropriate.

## 3. Exemptions

No construction, alteration, modification or installation of any Telecommunications Facility shall commence without a Conditional Use Permit first being obtained from the ZBA and a Zoning Permit obtained from the Administrative Officer.

Except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places, no permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communication signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than 8 square feet, and if the antennae in and any mast support does not extend more than 12 feet above the roof portion of the building to which the mast is attached." 24 V.S.A. § 4412(8)(A).

If an antenna structure is less than 20 feet in height and its primary function is to transmit or receive communication signals for commercial, industrial, institutional, non-profit or public purposes, it shall not be regulated under these zoning bylaws if it is located on a structure located within the boundaries of a downhill ski area and permitted under Title 24 V.S.A. Chapter 117. For the purposes of this subdivision, “downhill ski area” means an area with trails for downhill skiing served by one or more ski lifts, and any other areas within the boundaries of the ski area and opened to the public for winter sports.” 24 V.S.A. § 4412(8)(B).

The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from the zoning bylaws when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section. 24 V.S.A. § 4412(8)(C)

4. Authority

Pursuant to 24 V.S.A. § 4401 et seq the ZBA is authorized to review, approve, conditionally approve and deny applications for Telecommunications Facilities, including sketch, preliminary and final plans and installation. Pursuant to 24 V.S.A. § 4440(b), the ZBA is authorized to hire, at the applicant's expense, qualified persons to conduct an independent technical review of applications including without limitations, to evaluate compliance with Federal Communication Commission (FCC) rules, regulations and standards.

5. Consistency with Federal Law

In addition to other findings required by these Zoning Bylaws, the ZBA shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. The regulations do not:

- A. Prohibit or have the effect of prohibiting the provision of Personal Wireless Services;
- B. Unreasonably discriminate among providers of functionally equivalent services; or
- C. Regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

6. Applications For Conditional Use Review

An applicant for a permit must be a Personal Wireless Service provider or FCC licensee, or must provide a copy of its executed contract to provide land and facilities to such an entity. A permit shall not be granted for a tower or facility to be built on speculation.

Applications for Telecommunications Facilities shall include the following information:

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and

registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principle office shall be provided.

- B. The name, address and phone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the Structure or safety of the facility.
- C. A report from an engineer qualified to practice in the State of Vermont. The report shall include:
  - i. A comprehensive description of the facility height, design and elevation.
  - ii. Documentation of the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower and the minimum separation distances between antennas.
  - iii. A description of the tower's proposed capacity including the height, types of antennas that the applicant expects the tower to accommodate.
  - iv. In the case of new tower proposals, the opinion of the engineer that the existing telecommunications sites or other towers proposed by the applicant cannot reasonably provide Adequate Coverage or Adequate Capacity. The engineer's opinion shall provide enough information to allow an independent reviewer to verify that other locations are not suitable.
  - v. A written explanation for use of the proposed facility including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
  - vi. The opinion of the engineer that the proposed facility will establish and maintain compliance with all FCC rules and regulations, including without limitations, with respect to radio frequency exposure.
  - vii. Any other information required by the ZBA that is necessary to evaluate the request.
  - viii. The report shall include the engineer's stamp and registration number.
- D. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- E. For a facility to be installed on an existing Structure, a copy of the applicant's executed contract with the owner of the existing Structure.

- F. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental assessment draft of the final report describing the probable impacts of the proposed facility.
- G. A copy of the application or draft application for an act 250 permit, if applicable.
- H. Site map showing the entire vicinity within a 2,500 foot radius of the proposed Telecommunication Facility site, including all proposed construction, landscaping, utility lines, screening, public and private roads and Driveways, natural features, existing Building locations on adjacent Lots, property lines and all easements or rights-of-way needed to access the facility.
- I. Elevations showing all facades and indicating all exterior materials and colors of towers, Buildings and associated facilities and architectural drawings of all facilities showing proposed uses for all areas of the proposed telecommunications site.
- J. Computer generated photo simulations of the proposed Telecommunication Facility showing the facility from all rights-of-way and any adjacent property from which the facility will be visible. Each photo must be labeled with the line of sight and location from which the photo was taken. Each photo shall show the proposed color of the facility and method of screening.
- K. The approximate average height of the existing vegetation within 200 feet of the tower base.
- L. Construction sequence and time schedule for completion of each phrase of the entire project.
- M. All plans shall be shown at a minimum scale of one inch equals fifty feet.

7. Standards For Conditional Use Review

A Telecommunications Facilities permitted under Section 240 shall be permitted only if the ZBA determines, after public notice and public hearing that the proposed project conforms to the following general and specific standards:

- A. General Standards - The Telecommunications Facility shall not adversely affect:
  - i. The capacity of existing or planned community facilities;
  - ii. The character of the area affected including without limitation scenic, historic and environmental resources;
  - iii. Traffic on roads and highways in the vicinity;

B. Specific Standards:

The proposed Telecommunications Facility shall comply with all specific provisions of these Zoning Bylaws applicable to it, including but not limited to Lot Area, Setbacks, parking, Coverage, intensity of use and performance standards and the standards of Section 510. However, if one of the following subsections contains a more restrictive requirement for a particular use, such subsections shall control as to that particular use;

C. Telecommunications Facilities shall in addition to the foregoing, comply with the following:

- i. Telecommunication Facilities are permitted as conditional uses, upon compliance with these Zoning Bylaws and the tables of Section 240 of the Zoning Bylaws. Section 240 notwithstanding, the minimum Lot size for all Telecommunications Facilities shall be 40,000 square feet.
- ii. All towers less than 20 feet in height shall meet required Setbacks for the District in which the tower is proposed to be located.
- iii. All towers greater than 20 feet in height shall meet the greater of;
  - a) The required Setback for the District in which the tower is located or;
  - b) The Setback shall be equal to the height of the finished tower and all vertical fixtures plus 10 feet and;
  - c) The minimum distance from any tower to any dwelling or other occupied Structure shall be no less than the height of the tower, including all antennas or other vertical appurtenances.

D. An application for the Telecommunications Facility shall not be approved unless the ZBA finds that the facilities cannot be accommodated on an existing or approved tower or Structure due to one of the following reasons:

- i. The proposed antennas or equipment would exceed the structural or spatial capacity of the existing or approved tower or Structure. Additionally, the existing or approved tower or Structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed Telecommunications Facility.
- ii. The proposed antennas or equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility.

- iii. The proposed antennas or equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
- iv. Existing or approved towers and Structures cannot accommodate the proposed antenna or planned equipment at a height necessary to provide Adequate Coverage and Adequate Capacity.
- v. Aesthetic reasons, as determined by the ZBA, make it unreasonable to locate the proposed antenna or equipment upon an existing or approved tower or Building.
- vi. There is no existing or approved tower or Structure in the area in which coverage is sought.
- vii. Other unforeseen specific reasons make it unreasonable to locate the proposed Telecommunications Facility upon an existing or approved tower or Structure.

Any of the above reasons shall be documented by an engineer qualified to practice in the State of Vermont.

- E. Towers must be designated structurally and in all other respects to allow for future placement of both the applicant's antennas and additional antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows.
- F. Where the construction of new Telecommunications Facilities requires construction of or improvements to access roads, to the extent practicable, roads shall follow the contour of the lands and be constructed or improved within forest or forest fringe areas, and not in open fields. The ZBA may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot. The applicants shall take adequate precautions to prevent disruption by unauthorized off-road vehicles and possible damage to adjacent property by off-road vehicles.
- G. Utility or service lines shall be buried to the extent practicable. If the ZBA determines the utility lines cannot be buried then they shall be designed and located so as to minimize or prevent disruption to the scenic character or appearance of the area.
- H. Proposed facilities shall not unreasonably interfere with the view from or of any public park, historic Building or District, or scenic view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety.

- I. In order to protect the public safety and to preserve the scenic character and appearance of the area, the height of the towers, antennas and tower related fixtures shall not be more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the Telecommunications Facility. Notwithstanding the above, additional height may be approved upon a finding by the ZBA that additional height is necessary in order to provide Adequate Coverage and Adequate Capacity for the Town or to accomplish collocation of facilities and that the additional height will not adversely affect scenic, historic and environmental resources.
- J. Towers, antennas and any necessary support Structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridge lines and hilltops.
- K. Towers, antennas and any necessary support Structures shall be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. Use of stealth design, including those which imitate natural features may be required in visually sensitive locations.
- L. Ground mounted equipment or antennas as well as Buildings and Structures accessory to a tower shall be screened from view by suitable vegetation, except where design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be minimum of ten feet in depth with a minimum of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the Telecommunications Facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.
- M. Unless required by the FAA, no lighting of towers is permitted. In any case where the FAA regulations would require the Telecommunications Facility to have obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. The ZBA may require the height to be reduced where such reduction would eliminate the need for lighting or other obstruction markings as required by FAA regulations.
- N. No commercial Signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal, state or Town regulations.
- O. The ZBA may impose conditions to minimize the effect of noise from the operations of machinery or equipment upon adjacent properties during site preparation, construction and operation of facility.

- P. The ZBA may include conditions pertaining to emergency preparedness and response as may be requested by the Sherburne Volunteer Fire Department (SVFD) including the requirement that the applicant provide training and equipment so that the SVFD has the ability to properly and safely respond to an emergency situation involving the Telecommunications Facility.

8. Small Scale. Facilities, Exemptions And Amendments

- A. The placement of telecommunications antennas, repeaters or micro cells on existing Buildings, Structures, roofs or walls and not extending more than 10 feet from the same or the installation of ground facilities less than 20 feet in height may be considered small scale facilities and may be approved by the Administrative Officer provided the antennas meet the applicable requirements of these Zoning Bylaws, upon submission of:
  - i. A final site and Building plan
  - ii. A report prepared by an engineer qualified to practice in the State of Vermont, indicating the Structure's suitability for the Telecommunications Facility and that the proposed method of affixing the antenna or other device to the Structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point of attachment(s) shall be indicated.
  - iii. For a facility to be installed on an existing Structure, a copy of the applicant's executed contract with the owner of the existing Structure.
- B. The small scale facility shall comply with all other requirements of these Zoning Bylaws except that the small scale facility, which is attached to an existing Building, Structure, roof, or wall and not extending more than 10 feet from the same, may be located in a District.
- C. Antennae used by private, non-commercial amateur radio operators and Satellite Dishes or similar devices used to receive data transmissions from satellites shall be exempt from the bylaws of this Section provided they meet all FCC regulations and are in compliance with all other requirements of these Zoning Bylaws and all other Town Bylaws.
- D. An alteration, modification or addition to a previously approved wireless Telecommunications Facility shall require a permit amendment when any of the following are proposed:
  - i. Change in number or size of Buildings or facilities permitted on the site;
  - ii. Addition or change of any equipment resulting in greater visibility or structural windloading, or additional height in tower, including profile of additional antennas, not specified in the original applications.

9. Continuing Obligations, Maintenance Requirements And Facility Removal

- A. Upon receiving a permit, the permittee shall annually demonstrate that the facility is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for this representation.
- B. The applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event the applicant fails to maintain the facility, the Town may undertake such maintenance at the expense of the applicant or landowner.
- C. Abandoned, unused, obsolete, or noncompliant towers of facilities governed under these Zoning Bylaws shall be removed as follows:
  - i. The permit holder(s) of a facility/tower shall on January 15th of each year, file a declaration with the Town's Administrative Officer certifying the continuing safe operation of every facility/tower installed subject to these Zoning Bylaws. Failure to file this declaration shall mean that the facility/tower shall be deemed to have ceased operations and been abandoned as of January 15th of that year.
  - ii. Abandoned or unused towers or facilities shall be removed within 180 days of actual cessation of operations at the site unless a time extension is approved by the ZBA. In the event the tower or facility is not removed within 180 days of cessation of operation at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property of the owner.
  - iii. The ZBA may require the applicant, as a condition of the conditional use permit, provide a financial surety bond payable to the Town and acceptable to the ZBA to cover cost of removal of the facility and restoration of the landscape, should the applicants fail to remove the tower/facility, or otherwise come into violation of Town permit conditions.

10. Insurance, Fees And Enforcing Agent

- A. The facility owner shall maintain liability insurance on the Telecommunications Facility with minimum aggregate or combined single limits of one million dollars.
- B. Fees for filing an applications and zoning permits to build or alter a wireless Telecommunications Facility shall be set by the Board of Selectmen.
- C. No permit shall issue until the applicant has paid costs and expenses of any person(s) hired by the Town to do an independent technical review.
- D. The Zoning Administrative Officer shall be the agent to enforce the provisions of these Zoning Bylaws.

## ARTICLE IV GENERAL REGULATIONS

### SECTION 400 NONCONFORMING USES AND NONCONFORMING STRUCTURES

A Nonconformity created by the enactment of these Zoning Bylaws, or amendment thereof, maybe continued, subject to the following conditions:

1. A Nonconforming Use may be changed to another Nonconforming Use upon approval of the ZBA, but only if the ZBA finds that the degree of non-conformity of the new use is not greater than that of the original Nonconforming Use.
2. A Nonconforming Use, or a Nonconforming Structure may be extended within the boundary lines of a parcel or Lot existing on the effective date of these Zoning Bylaws, or any applicable amendment thereto, upon issuance of a Zoning Permit by the Administrative Officer, provided that the extension shall not cause the use or Structure to become in violation of any parking, unloading, required Setback, Lot Area, Coverage, Building Height, access road, or other requirements of these Zoning Bylaws applicable to such parcel or Lot, and provided further that such extension shall not cause an increase in an existing violation of any such requirement. Where a Building has less than the required front Setback, additions that are lateral to the existing Structure will be permitted so long as they become no closer to the road than the original Structure, and provided that side and rear Setback requirements are maintained.
3. When a Nonconforming Use has been discontinued for a period of one (1) year, it shall not thereafter be re-established.
4. A Nonconforming Structure which has been damaged or destroyed by any cause may be reconstructed to its prior condition, but only if such reconstruction is commenced within one (1) year and completed within two (2) years of such damage or destruction. If the nature of the damage or destruction is such that reconstruction within the foregoing time period would work a hardship, then the ZBA may permit such reconstruction with such time period and on such terms as are equitable.
5. Section 400 (1-4) shall not apply to Nonconforming Signs, which are controlled by Sections 440 (17).

### SECTION 402 - PROHIBITED USES

To further the purposes of these Zoning Bylaws, and to further clarify other sections and provisions contained in these Zoning Bylaws, the following uses shall be expressly prohibited in the Town:

1. Dumping, storing, burying, reducing, disposing or burning garbage, refuse, scrap metal, rubber, offal or dead animals, except such result from the normal use of the premises, and except municipal collection sites.

2. Junk Yards, automobile graveyards, or places for the collection of scrap metal, paper, rags, glass or junk for salvage or storage purposes.
3. Use of the Basement of an uncompleted Structure, wholly or partially below the grade of the Lot upon which it is located, for dwelling purposes.
4. Crematory.
5. Bulk petroleum or petroleum products stored in liquid form for commercial sale in tanks above ground.
6. Distilling of bones, fat, or glue or gelatin manufacturing.
7. Mobile businesses from cars, truck, trailer, and Temporary retail stands, except when such businesses meet the requirements of, and are conducted as part of, a Seasonal Public Use in the PDK District.
8. Occupancy of Travel Trailers for dwelling purposes.

**SECTION 403 - STRUCTURES EXEMPT FROM ZONING PERMITS**

The following Structures are exempt from the requirement to obtain a Zoning Permit provided they meet all dimensional requirements of these Zoning Bylaws, including Setbacks, for the District in which the Structure is to be located:

1. One Accessory Building on a parcel where One or Two Family Dwelling are permitted, which does not exceed 144 square feet in size and is 12 feet or less in height and does not have plumbing.
2. Residential entry stairs, handicap access Structures, walkways, at-grade patios, fences or walls less than six feet in height which do not extend into or obstruct a public or Town right-of-way or interfere with vehicular traffic or sight distances. Decks and porches are not exempt from the requirement to receive a Zoning Permit.
3. Normal maintenance and repair of an existing Structure which does not result in an expansion or change of use. Examples of such normal maintenance are roof repair or replacement, new siding and foundation work.

**SECTION 404 - MISCELLANEOUS REQUIREMENTS**

1. Existing Small Lots

Any Lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Zoning Bylaws and continuing thereafter may be developed for the purposes permitted in the District in which it is located, even though not conforming to the minimum Lot size requirements, if such Lot is not less than one-eighth acre with a minimum width or depth of forty feet.

Contiguous existing small Lots within the R-3 Districts which are in an affiliated ownership status on the effective date of these Zoning Bylaws may be developed for the purposes permitted in the District, even though not conforming to the minimum 3-acre Lot requirements, if such Lot was recorded in the Town Land Records prior to the effective date of these Zoning Bylaws.

2. Required Frontage on, or Access to, Public Roads: No Land Development shall be permitted on Lots which do not have frontage on a public road, or with the approval of the Administrative Officer, access to such a road by permanent easement or right-of-way of record at least thirty-five (35) feet in width. The "Planning Commission Policy For Review of Private Roads" may be used by the Administrative Officer during the approval process. An interested person may appeal the decision of the Administrative Officer pursuant to Section 760 of these Bylaws.
3. Agricultural and Forestry Uses: Where permitted under Article II, Agricultural and Forestry uses, that do not require a Structure, do not require a Zoning Permit. Subject to standards in Section 406 (3).

#### SECTION 406 - HOME OCCUPATIONS

A Home Occupation may be carried on subject to the following:

1. The business shall be operated wholly within the principal Building or Accessory Building;
2. Not more than two persons who are not residents of the dwelling may be employed in the business;
3. Obnoxious or excessive noise, smoke, vibrations, dust, drainage, glare, odors, electrical interference or heat that is detectable at the boundaries of the Lot on which the dwelling is located shall not be generated;
4. No traffic shall be generated in substantially greater volume than would normally be expected in the neighborhood.
5. A person shall not commence a Home Occupation without a Zoning Permit and Site Plan Approval from the Planning Commission. Examples of generally acceptable Home Occupations in the Town are: Craft Shop, work shop, beauty shop, Office and lodging accommodations for not more than 8 paying guests.

Notwithstanding anything else in these Zoning Bylaws, these Zoning Bylaws shall not prevent a resident from using a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character thereof, and if there is any conflict between this paragraph and other provisions of these Zoning Bylaws relating to Home Occupations, this paragraph shall control.

## SECTION 407 – SHORT-TERM RENTAL OF DWELLING UNIT

1. The Short-Term Rental of a Dwelling Unit requires a Zoning Permit (hereinafter in this section referred to as a Short-Term Rental Registration) from the Zoning Administrator. A person shall not commence the use of a Dwelling Unit as a Short-Term Rental unless and until the Zoning Administer issues the requisite Short-Term Rental Registration.
  
2. An application for Short-Term Rental Registration shall, for Dwelling Units with an occupancy of 8 or less, require self-certification of compliance with the following consistent with the Town Zoning File; or, for Dwelling Units with a Dwelling Unit Capacity of greater than 8 occupants, copies of the following:
  - A. The State of Vermont Wastewater and Water Supply Permit for the property for Dwelling Units constructed or occupied after July 1, 2007, OR, the local zoning or septic permit for Dwelling Units constructed before July 1, 2007, OR, the Listers Property Card with the number of bedrooms indicated if a local zoning or septic permit does not exist for Dwelling Units constructed before July 1, 2007.
  - B. A State of Vermont Land Use (Act 250) Permit if subject to Act 250 jurisdiction.
  - C. An inspection report with occupancy approved from the State of Vermont Division of Fire Safety for Dwelling Units with a Dwelling Unit Capacity of greater than 8 occupants. For Dwelling Units with an occupancy of 8 or less the self-certification form in subsection 2(E) below shall suffice.
  - D. The Posting of Contact Information required by 18 V.S.A. §4467.
  - E. The education materials required by 18 V.S.A. §4468(a), including without limitation the self-certification form pertaining to health and safety precautions that Short-Term Rental operators must take into consideration prior to renting a Dwelling Unit required by 18 V.S.A. §4468(b).
  - F. Proof that the liability insurance policy that covers the Dwelling Unit extends bodily injury and property damage insurance coverage that occurs during or as result of the use of the Dwelling Unit as a Short-Term Rental.
  - G. If the proposed Short-Term Dwelling Unit Capacity is for greater than 16 occupants ((7 bedrooms X 2) + 2), the use shall only be allowed in a Zoning District which allows “Hotel/Lodge” use and the applicant shall also obtain Site Plan Approval from the Planning Commission pursuant to §510 in addition to a Short-Term Rental Registration.
  
3. No Registration for the Short-Term Rental of a Dwelling Unit shall be issued unless the applicant has self-certified (for Dwelling Units with an occupancy of 8 or less) or has obtained and submitted to the Zoning Administrator (for Dwelling Units with a capacity of greater than 8 occupants) the documents and permits set forth in subsection 2 above.
  
4. The duration of a Short-Term Rental Registration shall be one year from the date of issuance.

5. The number of lessees, guests, or other persons using a Dwelling Unit pursuant to the Short-Term Rental lease or other agreement with the Short-Term Rental Registration holder shall not exceed the Short-Term Dwelling Unit Capacity of the Dwelling Unit.

6. The use of a Dwelling Unit by a number of lessees, guests, or other persons in excess of the Short-Term Rental Dwelling Unit shall constitute a violation of §407 by the Registration holder and/or the person with whom the Registration holder contracted for the Short-Term Rental of the Dwelling Unit.

#### SECTION 410 - OPEN STORAGE REQUIREMENTS

The open storage of materials, or inoperable or retired vehicles shall be screened from view from public highways by fences and/ or coniferous trees and shrubs. This screening provision is a continuing condition and responsibility of the owner.

#### SECTION 412 - FRONT SETBACK

Notwithstanding provision for Front Setbacks elsewhere in these Zoning Bylaws, on streets with less than 50-foot right-of-way, the Front Setback requirement shall be measured from the centerline of the existing roadway and 25 feet shall be added to that front Setback requirement.

#### SECTION 414 - LOTS IN TWO OR MORE ZONING DISTRICTS

Where one or more District boundary lines divide a Lot or parcel containing three acres or less of land, the bylaws for the least restrictive part of such Lot or parcel shall extend into the more restricted parts for an acreage total of not more than an amount equal to 90% of the acreage area contained in the least restricted part of such Lot or parcel. For Lots or parcels containing more than three acres of land, the bylaws for the least restrictive part of such Lot or parcel shall extend not more than fifty (50) feet into the more restricted parts of such Lot or parcel. These apply only if the Lot or parcel has Lot Frontage on a public street in the least restricted District and the Lot or parcel referred to in this Section is existing on the effective date of these Zoning Bylaws.

#### SECTION 416 - DWELLING ON LOTS

There shall be only one Principal Building containing a Dwelling Unit(s) on a Lot unless otherwise approved under Site Plan Review and/or Planned Unit Development provisions of these Zoning Bylaws.

#### SECTION 417 - ACCESSORY DWELLING UNIT

- A. There shall be permitted only one Accessory Dwelling Unit on an owner occupied One Family Dwelling Lot which is Appurtenant to the Principal Building provided the property complies with the following:
  - 1. The property has sufficient wastewater capacity.

2. The Accessory Dwelling Unit does not exceed 30 percent of the Gross Floor Area of the One Family Dwelling.
3. The Accessory Dwelling Unit meets Setback, parking, and Coverage requirements specified in these Zoning Bylaws.

**B. An Accessory Dwelling Unit may be located:**

1. Within or Appurtenant to an owner-occupied One Family Dwelling;
2. Within an Accessory Building of the One Family Dwelling.

**C. An Accessory Dwelling Unit of 900 square feet or greater shall obtain a Conditional Use Permit from the ZBA pursuant to §300 if:**

1. The Accessory Dwelling Unit is located in a new Accessory Building, or
2. The creation of the Accessory Dwelling Unit requires an increase in the height or an increase on the floor area of the owner-occupied One Family Dwelling.

**SECTION 418 - BUILDING COVERAGE, OPEN PORCHES, CARPORTS AND GARAGES**

In determining the percentage of Coverage of a Lot, porches, or carports, open at the sides but roofed, all principal and Accessory Buildings, decks, swimming pools, tennis courts and other recreational Structures that have a permanent foundation shall be included.

**SECTION 420 - LOCATION OF ACCESS DRIVEWAYS**

All access Driveways shall be located not less than 100 feet from the intersection of the right-of-way lines of intersecting streets for all uses except One and Two Family Dwelling units. No Lot shall be served by more than two access roadways, nor shall any such access roadway be wider than is reasonably necessary to safely accommodate the traffic passing over it, and in no case wider than forty (40) feet. All access Driveways shall be constructed in such a manner that provides for practical year round utilization.

**SECTION 422 - REDUCTION OF LOT AREA**

No Lot shall be so reduced in the area that the Lot Area, Setbacks, frontage, Coverage, or other requirements of these Zoning Bylaws shall be smaller than herein prescribed for each District. The provisions of this Section shall not apply when part of a Lot is taken for public purposes.

**SECTION 424 - REQUIRED AREA OF YARDS**

Except under PUD review, space required under these Zoning Bylaws to satisfy Lot Area, Setbacks, Coverage, or other Open Space requirements in relation to one Building shall not be counted as one part of required Open Space for any other Building.

## SECTION 425 - DIVIDED PARCELS

Lot Area on one side of an existing public highway right-of-way shall not be added to Lot Area on the other side of such right-of-way in calculating minimum Lot Area.

## SECTION 426 - HEIGHT REGULATIONS

The maximum Building Height for all uses in all Districts shall be limited to 28 feet (not to exceed 4 Stories), except as hereafter provided:

1. In all Zoning Districts, the standard Building Height for One Family Dwellings and Two Family Dwellings shall be limited to 20 feet (not to exceed 3 stories). An applicant may seek a Planning Commission administrative review and approval to increase the Building Height from 20 feet up to 24 feet using any of the following special conditions:
  - A. Documentary proof from the Vermont Division of Fire Safety that the building meets the requirements of the applicable code(s) administered by that state agency.
  - B. A raised grade or Berm of at least 10 feet in width from the building foundation with a maximum of 1:12 slope may be used to comply with these Zoning Bylaws.
2. Nothing herein contained shall be interpreted to limit or restrict the height of silos, church spires, cupolas, bell block, fire observation towers, windmills, ski lifts, antennae and similar Structures. The height of Telecommunications Facilities shall be controlled by Section 301 of these Zoning Bylaws.
3. Within an approved PUD the maximum Building Height shall be limited as follows:
  - A. Within the Ski Village District - Killington Basin Section, Ski Village District - Pico Section and Ski Village District – Falls Brook Section and a PUD within the Commercial District and the Business District, the maximum Building Height shall be limited to 47 feet (not to exceed 5 Stories). The maximum roof peak height shall not exceed 68 feet.
  - B. Buildings with a Building Height in excess of 28 feet under Subsection (A) above shall be subject to the following additional requirements:
    - i. There shall be a fire lane/emergency vehicle access on two sides of any such Building, such access to be at least 20 feet in width and located within 30 feet of the Building.
    - ii. There shall be adequate and clear fire lane signage.
    - iii. A Berm may not be used to increase the grade for purposes of measuring the Building Height for buildings having a Building Height over 36 feet.

- iv. For all projects with plans that require the approval of the Vermont Division of Fire Safety, the applicant shall submit such plans identified as approved by the Vermont Division of Fire Safety.
4. In the SVII District, the maximum Building Height shall be limited to 47 feet and shall not exceed five Stories. The maximum roof peak height for any Building in the SVII District shall not exceed 68 feet.
- A. Buildings with a Building Height in excess of 28 feet shall be subject to the conditions of Section 426(3)(0) (i) through (iii)
  - B. In areas of development containing high density residential units and buildings in excess of 36 feet in Building Height, the Building's' architecture will be subject to a Bulk Plane review. The intent of the Bulk Plane review is to ensure: 1.) adequate access to natural light, 2.) harmonious heights between adjacent Buildings and 3.) varied and non-monotonous Building facades. During the Bulk Plane review, the Planning Commission shall consider vertical and horizontal façade shifts, architectural detail, height variations and the intended use(s) of the Buildings as potentially mitigating factors.
  - C. Buildings may contain Lofts above the fifth Story provided the Loft is a part of the existing unit located directly below the Loft and the Loft is accommodated below the normal roofline.
  - D. Buildings with under Structure parking shall be allowed one level of parking Structure to be above grade and not count toward the permitted number of stories provided the overall height is in conformance with these Zoning Bylaws. A parking Structure built above grade shall have an exterior finish compatible with the upper levels of the Building in which the parking Structure is contained.
  - E. When determining the Building Height of a Structure that contains an underground parking facility, the sides of the Structure containing the entrance Driveway shall not be used to determine the Building Height provided the entire parking facility is below the finished grade of the Structure with the exception of the sides with the entrance Driveway. The Building Height shall be determined by measuring the exterior vertical perpendicular distance from the lowest point of the finish grade immediately adjoining the two sides of the Building to the highest Floor level.

#### SECTION 427 - LIGHTING

- 1. All exterior lighting shall be designed to eliminate direct light or glare directed toward public highways and adjacent properties and shall be of such a type that is compatible with the surrounding area.
- 2. All neon lights or neon-like lights which are visible from any public or private vehicular right-of-way are prohibited unless permitted by section 440-6.

SECTION 428 - TEMPORARY STRUCTURES

Structures or uses clearly incidental to construction projects shall not require a Zoning Permit unless they remain for a period longer than six months, in which case all applicable bylaws of these Zoning Bylaws must be adhered to and a Zoning Permit acquired.

SECTION 430 - ABANDONMENT OF STRUCTURES

Within six months after a permanent or Temporary Structure has been demolished, destroyed, or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owners of the Structures or shall be repaired, rebuilt, or replaced.

SECTION 432 – OFF STREET LOADING AND PARKING

1. Intent and Obligation: No Land Development shall occur within the Town unless the provisions for off street parking and loading as set forth in this Section have been met. The requirement for off street Parking Space and off street loading space shall be a continuing obligation of the owner of the property on which any such Building or use is located, as long as the Building or use is in existence and its use requiring vehicle parking facilities continues, unless a change in use also increases the parking requirements. No owner of any Building or use affected by this Section shall discontinue, change or dispense with, or cause the discontinuance of any required parking or loading space. No person, firm or corporation shall occupy a Building without providing off street parking and loading spaces which meet with the requirements of, and are in compliance with, these Zoning Bylaws.

2. Required Off Street Parking Spaces

(See Section 432(18) for loading space requirements),

USE

Auto Service Station; including automotive repair shops, garages and gas, stations with repair facilities.	6 spaces per bay or vehicle work station
Auto Service Stations without repair facilities	1 space per 4 pump stations.
Home Occupations	2 spaces or the number of spaces required by a use specified under this Section, whichever is greater, plus the residential requirement.
Hotel/Lodge, bed and breakfast facility including Home Occupation lodging facility.	0.9 spaces per room
Guest Room Dormitory Room	1 space for each 3 persons the room(s) are designed to sleep.

Indoor Sports Recreational Facility	1 space per 150 square feet of Gross Floor Area.
Light Industry, manufacturing, wholesale, warehouse storage, freight, trucking or laboratory uses *	1 space per 1.5 employees during the largest daily work shift or 1 space per 500 square feet of Gross Floor Area, whichever is greater.
Nightclubs, bars and Lounges where the serving of alcoholic beverages is the primary activity, with or without entertainment.	1 space per 30 square feet of Gross Floor Area
Office, banks and other financial institutions	1 space per 250 square feet of Gross Floor Area
Medical Offices and clinics	1 space per 200 sq. ft. of Gross Floor Area
Outdoor Recreation. Ski Lifts and Base Lodges**	1 PS per 9 persons per hour uphill capacity for the ski area including parking for Base Lodges
Public Assembly Use, Community Center, School auditoriums, theaters, churches or other places of assembly with fixed seating	1 space per 3 seats
Meeting rooms, convention facilities, or other places of assembly without fixed seating	1 space per 50 square feet of Gross Floor Area
Residential One Family & Two Family Dwelling Units	Greater of 3 spaces per Dwelling Unit or .8 spaces per Bedroom. Parking Spaces in front of a resident's garage will be considered a qualified Parking Space.
Multifamily Dwelling Units Studio, efficiency or 1 Bedroom	1.0 space per unit
2 Bedroom unit	1.6 spaces per unit
3 Bedroom unit	2.4 spaces per unit
4 Bedroom unit	3.2 spaces per unit
Dwelling Unit with greater than 4 Bedrooms	3.2 spaces plus 0.5 spaces for each Bedroom above 4 Bedrooms. Formula: (total # Bedrooms – 4) x .05 + 3.2
Restaurants, other than drive-in food or self-service Restaurant	1 space per 50 square feet of Gross Floor Area

Fast Food Restaurant	1 space per 40 square feet of Gross Floor Area
Retail Store, Personal Services and Craft Shop	1 space per 150 sq. ft. of Gross Floor Area
Shopping Center	1 space per 200 sq. ft. of Gross Floor Area
Vehicle rental	1 space per 250 sq. ft. of Gross Floor Area + 1 space per 10 rental vehicles

Other uses

In order to maintain the purpose and intent of these Zoning Bylaws the Planning Commission shall determine the number of Parking Spaces to be provided for uses not included in this Section to the end that there shall be adequate off-street parking for such uses.

\*In order to be considered as a separate use, warehouse, storage, freight and trucking areas shall be a block of space(s) comprising at least 15% of the Gross Floor Area of the Building or tenant space, whichever is greater.

\*\*Transportation lifts which the Planning Commission determines are designed and used to eliminate vehicular traffic shall be required to have Parking Spaces provided

3. Replacement Parking

When future development requires the closing of an existing parking lot, the Planning Commission may require replacement parking which is equal to or greater than the number of Parking Spaces lost due to the closing of the existing parking lot. Replacement parking shall be provided prior to closing the existing parking lot. All replacement parking shall be located within Reasonable Proximity to the use being served unless otherwise approved by the Planning Commission during Site Plan Review. The Planning Commission may modify the standards of Section 432 to reduce the required amount of parking upon presentation of convincing evidence that shared parking, remote parking, or other methods to alter required parking will adequately serve the proposed uses and will not cause a hardship on existing projects.

4. Drive-In Windows

Fast Food Restaurants with drive-in windows shall have a stacking lane for each window or remote customer service point of at least 200 feet measured in the centerline of the stacking drive from the drive-in window or remote customer service point back along the yet unserved vehicular stacking lane. The stacking lane shall be designated in such a way so that vehicles waiting in the stacking lane shall at no time interfere with internal circulation, Driveways, loading zones or public highways and shall be totally contained within the Lot.

5. Computation of Parking

Whenever two (2) or more classifications provided in Subsections 432(2) shall apply to a use of premises, the regulation requiring the larger number of Parking Spaces shall apply. In the case of two (2) or more different uses in the same Building or project the total requirements for off street parking shall be computed for each use to the hundredths place and added together. All fractions shall be rounded up.

6. Parking in Excess of Minimum Requirements

A person shall not construct Parking Spaces for any Building or use in excess of the number specified in Section 432(2) without the approval of the Planning Commission which shall be only granted if such person demonstrates that the number specified in Section 432(2) is inadequate for the reasonable needs of the Building or use.

7. Shared Parking

A. Site Plan Review

After the submission of a parking layout plan showing the location of the Parking Spaces required under Section 432(2), the Planning Commission may reduce the non-residential parking requirement of a project undergoing Site Plan Review by up to 80% for such uses that the Planning Commission determines will be generating a demand for parking during periods when other uses are not in operation or which will share parking demand with other uses located on the same Lot. Any such reduction shall apply to the uses specified by the Planning Commission at the time of applications only.

Any Parking Spaces eliminated pursuant to this Section shall be labeled on the Site Plan as "Future Parking" and be landscaped for the present. Any subsequent change in the specified uses shall require Site Plan Review Approval by the Planning Commission.

B. Mixed Use PUDs

After the submission of a parking layout showing the location of the Parking Spaces required under Section 432(2), the Planning Commission may reduce the non-residential parking requirements in a mixed use Planned Unit Development by up to 80% where the Planning Commission determines that the proposed nonresidential uses are clearly designed to primarily serve and attract residents of the PUD through pedestrian or ski access. In determining the number of Parking Spaces to be reduced in such mixed developments, the Planning Commission shall take into account physical relationships such as the number and location of pedestrian walkways and the walking distance from each nonresidential use to the residential Buildings. Any such reduction shall apply to the uses specified by the Planning Commission at the time of application only.

The Planning Commission may require that all or part of the Parking Spaces eliminated pursuant to this Section to be labeled on the PUD site plan as "Future Parking" and be landscaped for the present. Any subsequent change in the specified uses shall require a Site Plan Review approval and, if required by the Planning Commission, a PUD amendment approval in accordance with Sections 510 and 505 of these Zoning Bylaws.

C. Calculation Procedure

The following calculations procedure may be used by the Planning Commission to assist it in determining shared or mixed use parking credit; however, nothing herein shall be

construed as prohibiting the Planning Commission from applying any other appropriate method or calculations procedure to determine whether Parking Spaces shall be reduced in order to carry out the intent of this Section. In no case shall the parking be reduced below 100% of the highest parking generator as determined using the standards of Section 432(2).

CALCULATING PARKING FOR SHARED/MIXED USE DEVELOPMENTS

1. Determine the minimum amount of parking required for each land use as though it were a separate use;
2. Multiply each amount by the corresponding percentage for each of the five periods;
3. Calculate the column total for each time period;
  
4. The column total with the highest value is the parking requirement

	Monday - Thursday		Friday - Sunday		Nighttime Midnight 8:00AM
	Daytime 8:00 AM - 6:00PM	Evening 6:00PM - Midnight	Daytime 8:00AM 6:00PM	Evening 6:00PM Midnight	
Residential	50%	90%	90%	50%	100%
Office/Industrial	100%	10%	10%	5%	5%
Retail	90%	20%	100%	70%	5%
Hotel/Lodge	50%	90%	50%	70%	100%
Restaurant	50%	100%	70%	100%	10%
Nightclub	10%	100%	50%	100%	20%
Indoor Rec.	80%	100%	80%	100%	10%

EXAMPLE Mixed-Use Development: Office, Retail, and Nightclub.

The assumption is that the individual land uses would have the following Parking Space requirements:

Office	300 spaces
Retail	280 spaces
Nightclub	100 spaces
Total	680 spaces

	Monday - Thursday		Friday - Sunday		Nighttime Midnight 8:00AM
	Daytime 8:00AM- 6:00PM	Evening 6:00PM- Midnight	Daytime 8:00AM - 6:00PM	Evening 6:00PM - Midnight	

Office	300	30	30	15	15
Retail	252	56	280	196	14
Hotel/Lodge	--	--	--	--	--
Restaurant	--	--	--	--	--
Nightclub	10	100	50	100	20
Total	562	186	360	311	49

Solution to Example problem: Shared Parking Requirement - 562 spaces (shared parking allows a 17% savings).

#### D. Restaurants in Lodging Facilities

After the submission of a parking layout plan showing the location of the Parking Spaces required under Section 432(2), the Planning Commission may reduce the number of Parking Spaces required for Restaurants located in a Hotel/Lodge facility by as much as 90% if the dining room will not be open to the public at large and is clearly designed to accommodate lodging guests only. Any facility approved under the provision of this Section shall be required to post a Sign at least 4 sq. ft. in size at the entrance of the dining room indicating that the Restaurant is available to the lodging guests only.

Any Parking Spaces eliminated pursuant to this Section shall be labeled on the Site Plan as "Future Parking" and be landscaped for the present. The Planning Commission may waive the requirement for labeling of "Future Parking" provided that the owner of the property files a restrictive covenant for the benefit of the Town in the Town Land Records limiting the use of the Restaurant to in-house lodging guests only. Said restrictive covenant shall be executed prior to the issuance of a Zoning Permit for the proposed development.

#### E. Assignment of Shared Parking Spaces

No Parking Space designated for shared parking under the provisions of Section 432(8) shall be assigned or reserved for a particular party or use unless expressly authorized by the Planning Commission.

#### 8. Deferred Parking (Non-Residential Single Uses)

If, after the submission of a parking layout plan showing the location of the Parking Spaces required under Section 432(2), the Planning Commission determines that the projected demand for a specific non-residential use or residential use within an approved Planned Unit Development, may be less than the minimum required number of Parking Spaces for said use, the Planning Commission may defer up to 50% of the required spaces for future parking needs. Such deferred spaces shall be standard sized, shown on the site plan and labeled "Future Parking", but landscaped for the present.

9. "Future Parking" Area Standards

The maximum grade of any area designated as "Future Parking" pursuant to Section 432(8) and 432(9) shall not exceed 6% at the time of building completion and a notice shall be placed in the land records of the property or properties where the approved uses are located stating that "The Killington Planning Commission has reduced the amount of Parking Spaces required for this property pursuant to the provisions of Sections 432(8) and 432(9) of the Zoning Bylaws and may require that all or part of the required spaces so reduced be constructed by the owners, their successors or assigns, at any point in the future when it is determined after a duly warned hearing that there is a significant need for additional parking." No certificate of occupancy shall be issued for any project or portion thereof until the provisions of this Section have been met.

10. Reinstatement of Reduced Parking

The Planning Commission may require that all or part of the required spaces reduced or deferred under Section 432(8) and 432(9) be constructed at any point in the future when it is determined after a duly warned hearing that there is a significant need for additional parking.

11. Parking Space Size

Parking Spaces shall be 10 feet wide by 20 feet in length. In those situations where a parking management plan approved by the Planning Commission provides for parking lot personnel to control parking lot traffic and to direct vehicles to utilize the designed parking configuration, Parking Spaces may, at the discretion of the Planning Commission, be designated to be 9 feet wide by 18 feet in length. Site Plans shall number and designate the Parking Spaces to scale. Parking Spaces sheltered from snow may, at the discretion of the Planning Commission, be reduced to 8.5 feet wide by 18 feet long.

12. Dumpsters

Dumpsters or other similar trash receptacles shall not occupy designated and approved Parking Spaces and/or drive areas.

13. Parking Aisles

Parking aisles serving single rows of parking shall be 22 feet in width and serving double rows of parking shall be 24 feet in width. In those situations where a parking management plan approved by the Planning Commission provides for parking lot personnel to control parking lot traffic and to direct vehicles to utilize the designed parking configuration, parking aisles serving double rows of parking may, at the discretion of the Planning Commission, be 20 feet in width.

14. Location

Parking and loading spaces shall be located in Reasonable Proximity to the use being served, unless otherwise permitted through Conditional Use. Parking for any Restaurant, Lounge or Public Assembly Use permitted in the Business District which is not approved by the Planning Commission to be shared with residential uses in the same PUD, shall be constructed not less

than 100 feet from the Killington Road and as part of its Site Plan Review authority, the Planning Commission may require the applicant to preserve existing vegetative screening between the parking area and the Killington Road, or plant additional vegetative screening between the parking area and the Killington Road, except in the entrance and exit Driveways. The Planning Commission may, as part of its Site Plan Review under Section 510 of these Zoning Bylaws, reduce the landscaping buffer required to not less than 50 feet from the Killington Road if the Planning Commission finds the terrain, natural screening conditions and/or added vegetation screening will provide adequate visual screening between the parking lot and Killington Road.

15. Snow Storage

Parking areas for all but One and Two Family Dwellings shall have a designated area(s) to place snow. This snow storage area shall be adjoining or reasonably near the parking area and shall be of a size to hold a reasonable amount of snow as may be generated from the parking area after a heavy snowfall. In addition to or in lieu of providing a storage area, the Planning Commission may approve a procedure for trucking snow from the area.

16. Construction Equipment and Workers

Each Site Plan and/or Zoning Permit application shall specify generally where construction materials; equipment, trailers and workers' vehicles will be parked during construction. Such areas shall not include lands of public highway right-of-way.

17. Loading and Unloading Areas

Unless subject to a PUD Approval, in addition to the required off street Parking Spaces, each institution, Office, or commercial Building or other, commercial Structure of group of commercial Buildings on the same Lot shall provide off-street loading spaces on the same Lot as the Principal Building or Structure, in accordance with the following standards:

USES	LOADING SPACES
Hotel/Lodge, Commercial Business, and Service Establishments	1 space of at least 250 sq. ft. for each 3,000 sq. ft. of Gross Floor Area or part thereof.
Wholesale and Industrial	1 space of at least 500 sq. ft. for each 10,000 sq. ft. of Gross Floor Area or part thereof.
Bus and Truck Terminal	Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be unloaded at the terminal at any one time.

The standards for loading spaces may be modified in a PUD.

18. Modification of Loading Requirements

Loading spaces, as specified in Section 432(18) may be increased, decreased, or not required by the Planning Commission based on evidence presented at a public hearing regarding the nature of the business or operation. Such evidence may include, but not necessarily be limited to, proposed shared use of facilities or the unique nature of the proposed use.

#### SECTION 436 - SPECIAL PARKING AND LOADING SPACE REQUIREMENTS

Where any use, other than One, Two or Multifamily Dwellings, is proposed on a Lot or parcel which abuts property within the Forest Reserve, Residential-1, or Residential-3 Districts, or abuts any existing residential use, no parking or loading space shall be closer than twenty-five (25) feet to the property line abutting such District or existing use, and the spaces shall be screened.

All Parking Spaces proposed on a Lot or parcel within the Hamlet District shall be no closer than twenty-five (25) feet to any property line.

#### SECTION 440 - SIGNS

1. Purpose and Intent: The purpose of this Section of the Zoning Bylaws is to promote the public welfare and safety by regulating Signs. It is intended hereby to reduce Sign distractions and obstructions that may contribute to traffic accidents, and to promote traffic safety, and to preserve and promote the natural beauty, Open Space, community environment and aesthetics of the Town.

**Note: Banner Signs are regulated through the Town Banner Ordinance.**

2. Definition: Unless the context indicated otherwise, the following words and terms shall have the following meaning when used in this Section. The definitions in Section 120(2) shall also apply when used in this Section, to the extent not inconsistent with the definitions below. All words used in the plural number include the singular number; all words in the singular number include the plural number, unless in the natural construction of the wording indicates otherwise:

**Affiliate**: Means, with respect to any person; any sole proprietorship, partnership, joint venture, corporation, trust, or other entity in which such person may have an equity interest, right to a share of profits, or other beneficial interest.

**Awning**: A Structure made of cloth, metal or other material affixed to a Building in such a way that it does not protrude from the Awning surface.

**Awning Sign**: A Sign which is printed or imprinted on an Awning or otherwise affixed so that it does not protrude from the Awning surface.

**Canopy**: A Structure other than an Awning, used to cover an entry-way to a Building, made of cloth, canvas, or other like material.

**Canopy Sign**: A Sign which is printed or imprinted on a Canopy or otherwise affixed so that it does not protrude from the Canopy surface.

**Flat Sign:** A Sign attached to, printed or painted on, or otherwise affixed to a Building, the readable surface of which is parallel to the Building face to which it is attached and which is primarily supported by the Building, and any Awning Sign, Canopy Sign, or Window Sign.

**Free Standing Sign:** A Sign which is neither attached to nor supported by a Building.

**Independently Operated Business:** All those businesses carried on a Lot by a person and by all Affiliates of such person shall be deemed to be a single Independently Operated Business provided, however, that any one of such business on a Lot shall be deemed to be a separate Independently Operated Business if in the reasonable opinion of the Administrative Officer, (i) it is carried on in a separately leased premises, and (ii) the types of goods and services offered by the owner or operator of such business are substantially different from the other goods and services offered on the Lot by such individual person and the Affiliates of such person. Goods or services shall not be deemed to be substantially different by reason of being offered for rental instead of for sale.

**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.

**Marquee Sign:** A free standing, flat or Overhanging Sign designed to display changeable messages.

**Multi-business Development:** A Lot containing more than one Independently Operated Business.

**Multi-business Sign:** A free standing grouping of Signs placed on a Structure consisting of one common set of posts, and which advertises or calls attention to two or more Independently Operated Businesses in a Multi-business Development.

**Nonconforming Sign:** A Sign not in conformity with this Section, where such Sign conformed to all applicable laws, ordinances and regulations prior to the effective date of this Section.

**On-premises Sign:** A Sign 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 Sign is located.

**Off-premises Sign:** A Sign 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

**Overhanging Sign:** A Sign attached or affixed to the exterior of a Building, the readable surface of which is not parallel to the Building face to which it is attached.

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

**Portable Sign:** A two sided Sign capable of being carried by one person, designed to display changeable messages and is generally in the shape of an A. A Portable Sign shall not exceed ten square feet in size per side.

**Roof Sign:** Any Sign erected in any way upon a Building which is attached to or extends above any part of the Building's roof.

**Section:** This Section 440 of the Zoning Bylaws, as amended from time to time, including all subsections and parts thereof.

**Sign:** Any Structure, display, device, or representation which is designed or used to advertise or call attention to anything, 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 a part of the Sign. Whenever dimensions of a Sign are specified, they shall include panels but not frames.

**Window Sign:** A Sign attached to, painted on, or erected against the interior or exterior of a window, or placed inside a Building within five feet (5') of a window and visible from any public highway or other vehicular right of way.

3. Signs Prohibited Unless Expressly Permitted, Zoning Permits Required - Unlawful Acts and Omissions

- A. Any Sign not expressly allowed by the provisions of this Section is prohibited.
- B. It shall be unlawful for any person to erect, or display a Sign or enlarge, extend, substantially change, or move a Sign within the Town without first obtaining a zoning permit from the Administrative Officer in accordance with the provisions of this Section, unless specifically exempt from obtaining a zoning permit or otherwise not subject to zoning permit requirements.
- C. It shall be unlawful for any person to erect, or display a Sign, or enlarge, extend, substantially change, or move a Sign within the Town in a manner contrary to the provisions of this Section, or in a manner inconsistent with any permit, whether such permit is issued under this Section, or under the Zoning Bylaws prior to the effective date of this Section.

- D. It shall be unlawful for any Lot Owner to permit, suffer, or allow the erection, display, enlargement, extension, substantial change to, or movement of (i) any Sign in a manner contrary to the provisions of this Section, or (ii) any Sign which is not erected, displayed, enlarged, extended, substantially changed, or moved pursuant to a zoning permit under this Section (unless specifically exempt from obtaining a permit or otherwise not subject to zoning permit requirements), or (iii) any Sign which is erected, displayed, enlarged, extended, substantially changed, or moved in a manner inconsistent with any permit, whether such permit issued under this Section or under the Zoning Bylaws prior to the effective date of this Section.
- E. Notwithstanding anything elsewhere in this Section, any Sign authorized by this Section and requiring a zoning permit may display noncommercial content in lieu of any otherwise permitted content.

4. Application for Zoning Permit, Appeals Procedure, Revocation of Permits, Notices

- A. Application: Applications for zoning permits for Signs shall be made on forms provided by the Administrative Officer, and shall have attached the following information and signatures and such other information pertaining to the proposed Sign as the Administrative Officer may reasonably require to assure compliance with this Section;
  - i. Name, address and telephone number of applicant and of Lot Owner if different from the applicant.
  - ii. Location of Building, Structure, and Lot to which or upon which, the Sign is to be attached, and copy of the Town tax map showing the Lot.
  - iii. Sign plans and specifications (drawn to scale) including dimensions, shapes, the letters, words, designs and legends the Sign will display, material of which the Sign is to be constructed, and the method of attachment to the Building or Structure, and in the case of Free Standing Sign, (1) plans for the Structure which all support it or to which it will be attached, and (2) an evaluation of the sight distances from any Driveway intersections, or other intersections, demonstrating that the intersections will suffer no reduced visibility on account of the Sign or its supporting Structure.
  - iv. A sketch of the Sign and Building or Structure as they would appear in relation to each other.
  - v. Statement as to method of illumination of the Sign and intensity of illumination and a statement that the Sign, including its frames and supporting Structure will not contain day-glow or iridescent type parts or materials.

- vi. Location on the tax map of Building or Structure to which the Sign will be attached.
  - vii. An inventory consisting of color photographs and information specified in (ii) - (vi) above as to all Signs existing on the Lot, unless such inventory as been previously filed and the applicant states that it has not changed.
  - viii. In the case of Multi-business Development, a plan for uniform design and placement of Signs, and grouping of Free Standing Signs, in compliance with Section 440(8), or, if a plan has previously been approved (either under this Section or under the Zoning Bylaws by the Planning Commission), a demonstration that the proposed Sign complies with such plan and all provisions of this Section.
  - ix. Each Sign application shall be signed by the applicant. If the applicant is not the Lot Owner of the Lot where the Sign will be or is located, the Lot Owner shall also Sign the application as a co-applicant. If the application is being signed by a person acting on behalf of another person, written proof of the authority to so act shall accompany the application.
- B. Permit Review: After receipt of all of the foregoing information, together with the permit fee specified in Section 440(5) below, the Administrative Officer shall review the application for compliance with this Section and if it is complete shall render a decision to approve or disapprove the applications within 30 days of filing of the completed application. In making his or her determination the Administrative Officer shall review each application in light of the purposes of this Section and applicable standards. Provided, however, that no zoning permit for a Sign shall be issued to any applicant if any Sign on the Lot involved in the application (other than Nonconforming Signs as allowed pursuant to Section 440(17)) is not in compliance with this Section.
- C. Limitation on Sign Content Review: Notwithstanding anything elsewhere in this Section, the Administrative Officer shall review the content of a Sign only to the extent necessary to determine whether or not the Sign is an off premises Sign and to determine compliance with any other permits to which the property is subject.
- D. Permit Denial: If the Administrative Officer determines that the application for the Sign does not comply with all provisions of this Section, he or she shall within the period noted above, mail notice to the applicant(s) in writing of the decision to disapprove the application, which notice shall include a statement of reasons for disapproval.
- E. Revocation of Permit: The Administrative Officer is hereby authorized and empowered to revoke any zoning permits for a Sign issued by him or her upon failure of the permittee to comply with any provisions of this Section.
- F. Non-use of Sign Permit: If a permittee under a zoning permit does not complete the activities authorized by the zoning permit within 60 days of issuance of the

permit, the permit shall expire and be null and void. The Administrative Officer may extend the permit for an additional 60 days for good cause upon written application filed with the Administrative Officer prior to the expiration of the original 60 day period.

5. Permit and Appeal Fees - Every person, at the time of filing a zoning permit application for a Sign, permit extension, or an appeal shall pay to the Administrative Officer a permit fee or appeal fee in accordance with the schedule of fees adopted by resolution of the Board of Selectmen as amended from time to time. Any fees paid with an application shall be refunded if the Administrative Officer determines that the Sign being reviewed in the application process will display only noncommercial content as provided in Section 440(3)(E) above.
6. Signs Exempt from Permit Requirements - The following Signs do not require a zoning permit provided they meet the corresponding conditions and comply with all other applicable parts of this Section:
  - A. Description of Signs Exempt from Zoning Permits Requirements:
    - i. Signs not exceeding 4 square feet in area and bearing only property numbers, post box numbers, or names of occupants of the premises.
    - ii. Signs directing and guiding traffic and parking on private property not exceeding 4 square feet.
    - iii. Window display areas limited to the display only of actual merchandise sold on the premises.
    - iv. Signs erected in conjunction with a construction project not exceeding 12 square feet and for a time not exceeding a total of 180 days or until issuance of a zoning certificate of occupancy, whichever occurs first.
    - v. On or off premises Signs not exceeding 12 square feet advertising special events or cultural activities by non-profit organizations - for a period, whether consecutive or not, not exceeding more than 42 days in any one calendar year. If such Signs are proposed for off-premises, approval must be granted by the property owner and the Sign must be registered with the Administrative Officer prior to erection.
    - vi. Signs not exceeding 8 square feet advertising private auctions, garage sales and/or similar activities - for a period of not longer than 14 days consecutively twice per calendar year.
    - vii. On or off premises notices, information, signals, or Signs erected by governmental bodies, including event Signs or banners approved by the Board of Selectmen. This exemption shall not apply to official business directional Signs or any other Signs licensed, erected, maintained, or established pursuant to Chapter 21, Title 10, Vermont Statutes Annotated.

- viii. Signs not exceeding 4 square feet which designate private streets, roads, or trails.
- ix. Signs not exceeding 4 square feet which warn of danger or restrict trespassing, hunting, or fishing.
- x. Copyrighted Signs such as AAA, American Express, etc., if attached to a Sign approved by a zoning permit and not exceeding 180 square inches. (180 square inches equals 1.25 square feet)
- xi. Signs advertising the sale or lease of the premises on which such Sign is displayed provided they do not exceed 6 square feet.
- xii. One Awning or Canopy Sign per Awning or Canopy and not exceeding 2 square feet.
- xiii. Signs not to exceed 180 square inches indicating vacancy, no vacancy, open or closed (Limited to no more than one sign per business).
  - a) Window signs indicating open, vacancy, no vacancy and closed may be illuminated with neon or LED type signs not exceeding 2.5 sq. feet that will be displayed on the inside of the building window or door and must not contain any commercial message (Limited to no more than one sign per business)
  - b) Commercial Signs that are neon, LED or illuminated may be displayed inside buildings that are of a commercial nature but must meet the following: Illuminated or Neon type signs on inside walls, over bars and used for advertisement or light displays must be placed as to not be in direct view from the outside of the building or be a minimum of 10 ft from view of the window or door to be permitted.
- xiv. Signs not exceeding 4 square feet of occupants of Dwelling Units, containing noncommercial content. Such Signs shall be limited to two Signs per Dwelling Unit, not more than one of which may be free standing.
- xv. Up to five decorative or seasonal banners which are attached to a pole and do not contain any commercial message and do not exceed ten square feet in size. Display of more than five such banners shall require prior review and approval by the Planning Commission.

**B. Conditions Applicable to Certain Exempt Signs:**

- i. A person shall not erect or maintain more than two of each such Sign in Section 440(6)(A)(i)-(xiii) above on a Lot at any one time, except that the number of Signs described in Section 440(6)(A)(ii), (iii), (vii), (viii), and

(ix) above are unrestricted, and the number of Signs in Section 440(6)(A)(x) is limited to the number of allowed approved Signs.

- ii. For purposes of this Section 440(6) and Section 440(11), a Sign or device shall be considered one Sign although both sides are used, and the Sign area limitations stated above shall be the Sign area of any one side. The foregoing Signs in this Section 440(6) are allowed in addition to any other permitted Signs and shall not count against the allowable Sign area or allowable number of Signs under Sections 440(7) and 440(8).
- iii. Notwithstanding the provisions in Section 440(6)(A) above, Signs described in Section 440(6)(A)(iv), (v), (vi), (x), (xi), (xii), and (xiii) may contain non-commercial content in lieu of any content described in such subsections.

7. Number and General Requirements

- A. There shall be permitted for each Independently Operated Business (other than those described in Sections 440(7)(B) and 440(7)(C) below) three (3) Signs on the Lot on which the Independently Operated Business is located, not more than two (2) of which may be free standing.
- B. There shall be permitted for each real estate subdivision, condominium project, or Private Club, one Free Standing Sign on the Lot where such use is located.
- C. There shall be permitted for each Home Occupation on the Lot where the Home Occupation is located, one Structure supporting two Free Standing Signs, one on each side of the Sign panel, or one Flat Sign.
- D. A Sign for which a zoning permit is required may contain only business name, trade name, product or services sold, business conducted, directional information, names of live entertainment or movies currently appearing, and associated designs and logos, except as provided in Sections 440(9) and 440(11) and except as provided in Section 440(2)(E).
- E. Non-conforming Signs shall be counted and included in determining the number of allowable Signs on a Lot.

8. Sign Area and Location

- A. The Sign area of an overhanging, free standing or Flat Sign for a business (other than a Multi-business Sign as provided in Section 440(9)(B) or as provided in Sections 440(7)(B) and 440(7)(C) shall not exceed 32 square feet, or 64 square feet if the Sign is facing Route 4 or Route 100.
- B. The area of a Sign approved under Sections 440(7)(B) or 440(7)(C) shall not exceed 9 square feet.

- C. Notwithstanding Section 440(8)(A) above the area of an Awning Sign or Canopy Sign located on the front semi-circle or side of an Awning or Canopy shall not exceed 32 square feet, even if the Sign faces Route 4 or Route 100.
  - D. A Lot which has frontage on two or more public highways or vehicular rights-of-way and has an approved Driveway onto each, with the exception of corner Lots, may be permitted to have an additional one-sided Free Standing Sign advertising a business, not to exceed 15 square feet. The 15 square foot Sign shall not be visible from any other Free Standing Sign on the Lot.
9. Multi-business Development - In a Multi-business Development, the following shall apply:
- A. All Signs in a Multi-business Development shall be of compatible design and placement, and shall comply with a plan submitted to and approved by the Administrative Officer as provided in Section 440(4). Once the Administrative Officer has approved a plan, the Administrative Officer shall issue individual Sign permits only if the proposed Signs comply with the plan and the other provisions of this Section.
  - B. The total Sign area of a multi-business Sign which advertises or calls attention to two Independently Operated Businesses shall not exceed 64 square feet. The total Sign area of a multi-business Sign which advertises or calls attention to three or more Independently Operated Businesses shall not exceed 96 square feet. The Sign area used to advertise or call attention to any one Independently Operated Business on a multi-business Sign shall not exceed 32 square feet, or 64 square feet if the Sign is facing Route 4 or Route 100.
  - C. All Free Standing Signs in a Multi-business Development shall be grouped and placed on one common Structure and the Signs shall be of a compatible design and placement.
  - D. A Lot with Independently Operated Businesses in a Multi-business Development which has separate stand alone Buildings may have one additional two-sided Free Standing Sign which does not exceed 32 square feet per side, or 64 square feet if the Sign is facing Route 4 or Route 100, provided:
    - i. The total Sign area for the additional Sign shall not exceed 32 square feet per side, or 64 square feet if the Sign is facing Route 4 or Route 100, regardless of the number of Independently Operated Businesses which are advertised on the Sign.
    - ii. The currently permitted Free Standing Sign, approved under Section 440(9), is at the maximum allowable size permitted by these Zoning Bylaws.

- iii. The existing Sign and the new Sign will be separated by a minimum of 100 feet. During Planning Commission review the Planning Commission may reduce the distance between an existing freestanding Sign and a proposed second Free Standing Sign.
- iv. No business or product shall be advertised on both Free Standing Signs.
- v. There shall not be permitted more than two Free Standing Signs per Multi-business Development.
- vi. Prior to receiving a permit for an additional Free Standing Sign, all nonconforming signage at the Multi-business Development shall be brought into compliance with these Zoning Bylaws.
- vii. A second Free Standing Sign shall be permitted only after review and approval by the Planning Commission.

10. Projections - Sign Height

- A. A Flat Sign affixed to a Building may not project more than 6 inches from the face of the Building to which it is attached. This provision shall not be construed to allow a Canopy or Awning Sign to protrude from the Canopy or Awning surface.
- B. An Overhanging Sign may not project more than 8 feet from the face of the Building to which it is attached.
- C. A flat Overhanging Sign shall not extend above the wall to which it is attached.
- D. The highest part of a Free Standing Sign, and its supporting Structure, shall not be more than 20 feet (except for a Sign pursuant to Sections 440(7)(B) or 440(7)(C), which shall not extend more than 12 feet) above the average elevation of the finished Lot grade between the front line of the Building and the Lot Frontage or the elevation of the highway closest to the Sign.

11. Accessory Signs

- A. A total of one additional Sign per Independently Operated Business of similar design, color, and materials of not more than 4 square feet (an accessory Sign) may be attached to a free standing, flat, or Overhanging Sign provided the accessory Sign is limited to informing the public of special prices, sales, and other information which changes over time. An accessory Sign shall not count against the allowable Sign area or against the total number of Signs allowed for an Independently Operated Business, provided that the primary Sign meets all applicable requirements of these Zoning Bylaws. An accessory Sign shall not be allowed on any Canopy Sign, Awning Sign, or noncomplying Sign, nor on any Lot where one or more Signs (other than noncomplying Signs) are not in compliance with these Zoning Bylaws. An accessory Sign for a Multi-business

Development shall count against the allowable Sign area as provided in Section 440(8)

- B. A total of one Portable Sign shall be permitted on a Lot containing an Independently Operated Business(s). Such Sign shall be displayed only at times the business is open to the public. In a Multi-business Development the Sign may be shared by more than one business. A Portable Sign shall be placed so that it does not interfere with vehicular traffic and pedestrian walkways.

12. Prohibited Signs - The following Signs are prohibited, notwithstanding anything elsewhere in this Section:

- A. Off-premises Signs, except as specifically provided in this Section.
- B. Signs and Structures supporting Signs erected in or overhanging the right of way of any Town or State of Vermont highway, or so as to obstruct the view of traffic, impair public safety or cause confusion, or create confusion with the flow of traffic signals.
- C. Roof Signs
- D. Signs on vehicles if the manner in which the vehicle is used is primarily advertising.
- E. Signs that prevent free access to any door, window, or fire escape or create a public hazard.
- F. Signs on or attached to trees or other natural features (except Signs listed in Sections 440(6)(A)(i), (viii) and (ix). Signs attached to rocks may be permitted upon review by the Administrative Officer if otherwise complying with this Section.
- G. Free Standing Signs such as inflatable Signs, trailer Signs, hand held or walking signs.
- H. Signs, including their frames and supporting Structures, with dayglo or iridescent type paints and/or materials.
- I. Signs, including their frames and supporting Structures, with moving parts, blinking and/or moving lights, or neon or neon like lights unless permitted under 440(6).
- J. Signs attached to a utility pole.
- K. Marquee Signs except for those listing changing entertainment or which qualify as an accessory Sign pursuant to Section 440(11).

- L. Official business directional Signs, and any other Sign, Sign plaza, or other device, licensed, erected, maintained, or established under the provisions of Chapter 21, Title 10 of the Vermont Statutes Annotated, within all Town highway rights of way.
13. Design Specifications, Material and Illumination- All Signs (whether or not requiring a Sign permit) must adhere to the following criteria:
- A. Signs and lettering must utilize wood and/or wood type products, except in the case of those that are specified in Sections 440(6)(A), (ii), (iii), (iv), (vii), (viii), (xi), (xii), (xiii), (xiii)(a), (xiii)(b), (xiv), (xv) and 440(14)(B) below. Other materials, (except plastic or plastic-type composites) are authorized upon review and approval by the Planning Commission as to Signs subject to the wood or wood type products requirements.
  - B. All Awnings and Canopies to which Awning Signs and Canopy Signs are affixed, and all commercial banners, shall be constructed of cloth or simulated cloth materials except for their braces and supports which may be wood, metal or other like material.
  - C. Signs must be securely affixed to a post, framework, or Building, except in the case of those Signs that are specified in Sections 440(6)(A), (i), (viii), (ix).
  - D. Signs may be illuminated only by continuous external lights which must be placed and shielded so that they do not produce glare, distraction, or confusion to vehicular traffic and neighbors.
  - E. Any Awning or Canopy may be internally illuminated provided such Awning or Canopy contains no Signs.
  - F. An Awning or Canopy to which an Awning Sign or Canopy Sign is affixed may be illuminated only by continuous external lights or by internal lights directed toward the ground. Such Awning or Canopy Sign shall not be back lighted.
  - G. Reflective nighttime materials may be used in lieu of light provided they do not produce glare, distraction, or confusion to vehicular traffic and neighbors.
14. Special District Requirements
- A. Signs located in the Public Open Space District/Killington Section or in Planned Unit Developments of over 25 acres shall conform to an overall Sign plan approved by the Planning Commission. On the event any such overall Sign plan approves Signs in a manner inconsistent with Sections 440(6)(A), (i), (ii) or (viii) or 440(6)(B)(i) or (ii), or 440(9)(C) the Administrative Officer shall approve such Signs, provided they otherwise comply with this Section.
  - B. All signage in a PUD shall be consistent with Section 440- Signs of the Zoning Bylaws unless modified by the Planning Commission under Site Plan Approval

review. As part of the Site Plan Approval application, the applicant(s) shall provide all the information required under Section 440(4) of the Zoning Bylaws. The Planning Commission may modify the requirements of Section 440 and impose less restrictive requirements upon reviewing and approval of a comprehensive Sign plan presented by the applicant(s) as part of the Site Plan Approval review.

15. Maintenance of Signs - A Sign and its related Structure shall be maintained in good repair.
16. Signs of Discontinued Businesses - A Sign for a business which has been discontinued shall be removed within six months from such discontinuance.
17. Nonconforming Signs - Nonconforming Signs may continue to exist, except as provided herein, and may be altered in design or content (but not in Sign area, height, projection, or in any manner which would increase the degree of noncompliance with this Section). In amplification of, but not way of limitation of the foregoing, under no circumstances shall a nonconforming Sign be moved to a different location. Notwithstanding the preceding two sentences, the following shall apply to any noncomplying Sign which has been taken down for any purpose, or damage or destroyed:
  - A. Such Sign may, for a period of four (4) months from the date of being taken down, damaged, or destroyed, be replaced at the same locations.
  - B. If such Sign is not replaced at the same location within the four (4) month period, it shall not thereafter be re-established or replaced.
18. Conformity with State Law - Anything herein to the contrary notwithstanding this Section shall in no way be construed to permit the erection or maintenance of any Sign contrary to the laws of Vermont, now in existence or hereafter enacted.
19. Severability - Any part or provision of this Section shall be considered severable and, if any provision of this Section or the application there to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Section which can be given effect without the invalid provisions or application, and to this end the provisions of this Section are declared severable.
20. Construction - The terms and provisions of this Section are to be liberally constructed so as best achieve and promote the goals and purposes hereof. The captions and headings in this Section are inserted for purposes of convenience and reference only, and shall not be used in any way for the construction and interpretation of this Section.

#### SECTION 450 - LANDSCAPING BUFFER

1. Commercial and industrial Land Development, unless reviewed and approved under PUD Review approval, shall be screened from adjacent property where One, Two, or

Multifamily Dwellings are permitted by Zoning Permit or PUD. Such screening to be by a fence or a buffer of natural plants or coniferous trees or shrubs at least 25 feet wide.

2. Industrial Land Development shall be screened and hidden from public highway view, such screening to be by a fence or a buffer of natural plants or coniferous trees at least 10 feet wide.
3. A buffer of land not less than fifty (50) feet wide shall be established between the hiking trails that are designated in the Town Plan and adjacent residential or commercial uses on each side of these trails. Within the buffer the following uses are prohibited: the erection of any Structure, the clear-cutting of trees, and any other use that would adversely affect the scenic or natural character of one of these trails.
4. Parking areas for commercial development in the Hamlet District shall be screened from the public highway, such screening to be by the commercial Structure, a fence, coniferous trees and/or a buffer of natural plants and coniferous trees. The buffer shall be at least ten (10) feet wide, with trees planted at least every twenty feet along the entire length of the parking lot. Other methods of screening may be used with Planning Commission approval as part of its Site Plan approval. If any of the plantings in the buffer area should die or otherwise be removed, they shall be replaced during the next planting season. If other screening materials, such as fences or walls, should be damaged or removed, they shall be replaced within 120 days.
5. A buffer of land no less than 250 feet in width shall be maintained between any Restaurant, Lounge and/or Public Assembly Use approved in a PUD in the Business District and any residences not located within such approved PUD within which the Restaurant, Lounge or Public Assembly Use is located. Provided, however, that the Planning Commission may, as part of its Site Plan Review under Section 510 of these Zoning Bylaws, reduce the landscaping buffer required under this Section to not less than 150 feet if it finds that terrain and/or natural screening conditions will provide adequate visual and acoustical screening between the Restaurant, Lounge or Public Assembly Use and such residences.

#### SECTION 454 - LAKE SHORELAND AREAS

Notwithstanding any other provision of these Zoning Bylaws, the following provisions shall apply to the lands along the shores of Kent and Colton Ponds:

1. The minimum Setback of any Structure shall be 200 feet from the normal mean water mark.
2. Existing trees and groundcover along the shoreline shall be preserved to a minimum of 150 feet from the normal mean water mark, provided however, that, subject to the approval of the ZBA, by Conditional Use Permit under Section 300, there may be selective cutting and culling within such area if it will not seriously affect the natural scenic character of the shoreline or the quality of the water or cause erosion.

SECTION 456 - VALLEY, HAMLET, SHERBURNE PASS, AND COMMERCIAL DISTRICTS -ROUTE 4 ACCESS

In the Valley, Hamlet and Sherburne Pass Districts, and in the Commercial District - Route 4 Section from Killington Road to West Hill Road, the following shall apply to each parcel owned or controlled by a person on the effective date of these Zoning Bylaws and having frontage abutting the edge of the right-of-way of Route 4.

1. If the parcel has a continuous length of Route 4 frontage having on the effective date of these Zoning Bylaws no Route 4 access roadway, the number of Route 4 access roadways a person may construct on a parcel within such continuous length of frontage is limited to:
  - A. One Route 4 access roadway for each continuous length of Route 4 frontage of 1,000 feet or less.
  - B. Two Route 4 access roadways for each continuous length of Route 4 frontage which is 2,000 feet or less, but more than 1,000 feet.
  - C. For each continuous length of Route 4 frontage of more than 2,000 feet, two Route 4 access roadways plus one for each 1,000 feet or portion thereof in excess of 2,000 feet.
2. The number of access roadways, if any, existing on the effective date of the Zoning Bylaws shall not be increased above the number permitted in Section 456(1)(A) (B) and (C).
3. "Access roadway" as used in this Section means any ungraveled or paved roadway or other area designed or used for motor vehicle travel and located between Route 4 Lot Frontage and a line parallel with the Lot Frontage and having a distance from it equal to the required Front Setback. However, access roadway does not include entrance solely to gain access to a field used solely for agricultural purposes.
4. "Parcel", as used in this Section, means all contiguous lands within a person's boundary lines, or the lines of lands he controls, as those lines exist on the effective date of these Zoning Bylaws. Subdivision of a parcel shall not create a right to construct any access roadway in addition to those permitted in this Section.
5. "Continuous length of Lot Frontage", as used in this Section, means a distance measured along a Route 4 Lot Frontage of a parcel from an intersecting side Lot line or municipal highway right-of-way line nearest intersecting side Lot line or municipal highway right-of-way line.

ARTICLE V PLANNED UNIT DEVELOPMENT AND SITE PLAN APPROVAL REVIEW

SECTION 500 - PUBLIC NOTICE OF HEARING; SITE PLAN REVIEW AND PLANNED UNIT DEVELOPMENT

1. Notwithstanding Section 900, public notice for Site Plan Approval review and Planned Unit Development Approval review shall be given not less than seven days prior to the date of the public hearing and shall include:
  - A. Posting the date, time, place and purpose of the hearing in three or more public places within the municipality.
  - B. Written notification to the applicant.
2. Applicant public notice requirements:
  - A. Written notification shall be given to the owners of all properties adjoining the property subject to development without regard to right-of-way. The notification shall include date, time, and place of the hearing, description of the proposed project and purpose of the hearing and information which clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
  - B. Prior to the public hearing the applicant(s) shall demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
  - C. The applicant shall be responsible for the cost of A and B above.

PROVAL IN COSECTION 505 - PLANNED UNIT DEVELOPMENT APPROVAL

**General Intent:** A PUD is intended to: 1) permit developments of larger parcels of land which will provide a desirable and stable environment in harmony with that of the surrounding area; 2) permit flexibility that will encourage a more creative approach in the development of land which will result in a more efficient, aesthetic and desirable use of open area; 3) permit flexibility in design, placement of Buildings, use of Open Spaces, circulation facilities, and off-street parking areas; and 4) utilize best the potentials of sites characterized by special features of geography, topography, use, size or shape.

So that new communities, innovations in design and layout, and more efficient use of land may be encouraged, a person may undertake Land Development in any District except the Public Open Space and Hamlet Districts, upon approval of a PUD, as authorized by 24 V.S.A. § 4417. To permit a PUD, the Planning Commission may modify these Zoning Bylaws in accordance with that section subject to the following standards and conditions:

1. PUD Regulatory Requirements & Process:

- A. Pursuant to 24 V.S.A. § 4417, as amended, the Planning Commission shall have the authority to review and approve, approve with conditions or deny an application for a PUD pursuant to the standards in these Zoning Bylaws.
- B. The applicant(s) may apply for PUD Approval for any permitted or conditional use in compliance with the standards set forth in Section 240 for the applicable District(s) in which the subject land is located.
- C. Applications for a PUD Approval may involve a single property or multiple properties and one owner or multiple owners. Applications involving multiple owners or properties shall identify all owners and properties to be reviewed. The review process shall be the same with multiple owners and properties as with a single owner or property.
- D. A PUD Approval review shall be conducted in compliance with the provisions of Title 24 V.S.A. Chapter 117, Subchapter 10 (§§ 4460-4464) as may be amended.
- E. A PUD Approval review hearing shall be warned pursuant to the requirements of Section 500 of these Zoning Bylaws.
- F. An applicant(s) may apply for a comprehensive review in which the Planning Commission shall review all aspects of the project and conduct PUD Approval review concurrently with Site Plan Approval review. Where PUD and Site Plan Approval review are conducted concurrently, an applicant(s) may seek Site Plan Approval review for the entire project, or a particular phase or phases of the project.
- G. In conjunction with PUD Approval review, the modification of these Zoning Bylaws is permitted subject to the conditions and standards in this Section and other applicable provisions of these Zoning Bylaws.
- H. Conditional use review, where applicable, shall be conducted concurrently with PUD Approval review.
- I. The Planning Commission shall hold at least one public hearing, upon public notice, prior to issuing a decision on the application for PUD Approval.
- J. The Planning Commission authorizes the PUD to be completed in reasonable phases, in accordance with the Town Plan. The Planning Commission may require that the applicant(s) for a multi-phase PUD Approval provide periodic updates of the projected phasing schedule.
- K. The Planning Commission shall issue a decision on a PUD application within 45 days after the adjournment of the PUD Approval review hearing.
- L. An application for an amendment to a previously-issued PUD approval shall be subject to the Town Zoning Bylaws in effect at the time of the amendment application.

- M. The issuance of a PUD Approval shall not relieve the applicant(s), or his successors or assigns, from the obligation to obtain a Site Plan Approval and Zoning Permit under Sections 510 and 610 of these Zoning Bylaws, respectively. No Zoning Permits for any construction or development located within the PUD shall be approved based on PUD Approval findings of fact, conclusions of law and order until the proposed construction or development has received Site Plan Review Approval from the Planning Commission.
2. A PUD Approval application submitted to the Planning Commission shall contain the following information:
- A. Name, address and signature of the applicant(s).
  - B. Name, address and signature(s) of the land owner(s) of record.
  - C. In order to provide notice pursuant to 24 V.S.A. § 4464(a), the name and address of owners of all properties adjoining the property subject to development.
  - D. Accurate scale map of all lands included in the PUD application including:
    - i. the date the map was prepared
    - ii. true north arrow.
    - iii. showing existing roads, Structures, and Open Space.
  - E. Location map showing the relation of the proposed PUD to adjacent property(ies) and the general location within the Town.
  - F. Both maps and a written statement showing enough of the area surrounding the proposed PUD to demonstrate the interrelationship of the PUD to adjoining uses, both existing and proposed.
  - G. A Master Plan including the general location, property type and use of the land and Structures proposed, together with a - written statement detailing how the proposed PUD will comply with the use restrictions and dimensional requirements set forth in Section 240 of these Zoning Bylaws for the applicable District(s).
  - H. Details of any waivers (if any) being sought during the PUD Approval review.
  - I. A non-binding preliminary proposal for the phasing of proposed improvements within the PUD, in accordance with the Town Plan.
  - J. The applicant(s) shall provide to the Town three copies of all of the above materials.

3. The Planning Commission may require from the applicant(s) additional information so the Planning Commission can determine compliance with the applicable requirements and uses set forth in Section 240 for the zoning District(s) in which the subject land is located.
4. The approval of a proposed PUD shall include findings that the PUD is in conformance with the Town Plan and other applicable Town Bylaws.
5. All uses allowed as permitted or conditional uses shall be reviewed and approved by the Planning Commission under PUD review and a separate conditional use review by the ZBA shall not be required for PUD applications reviewed by the Planning Commission under these Zoning Bylaws. During PUD review, the Planning Commission shall use the standards of Section 300 to review conditional uses.
6. A Planning Commission may allow for Buildings to cross the District boundaries. Where Buildings are located in two Districts, the District with the more restrictive conditions shall apply. Accessory Uses, such as parking facilities, may be located in a different District than the principal use.
7. The minimum Lot Area requirements for a PUD, as specified in the Tables of Section 240, shall apply to any Lot, including those in individual and separate and non-affiliated ownership from surrounding properties, in existence on the effective date of these Zoning Bylaws, even if such Lot on such date did not meet such minimum Lot Area requirements, with the exception of the Commercial and Business Districts for which the Planning Commission may reduce the 5-acre minimum Lot Area requirement to 3 acres for pre-existing Lots or parcels.
8. The Planning Commission may allow for a greater concentration of density, or intensity of residential and/or other land use within some section or sections of the development than upon others, which shall be offset by a lesser concentration in any other section, provided that the overall density of the PUD remains in conformance with Section 240.
9. Where a PUD is to be located in more than one District, the Lot sizes and the number of allowable Dwelling Units must be separately calculated for each individual zone in the PUD.
10. The Planning Commission may decrease the Setback requirements in any District if, in its judgment, the special circumstances of a proposed development would make such Setback requirement inappropriate. Side and Rear Setback requirements, as listed in the Tables of Section 240 and as used in this Section, shall be interpreted as the side and rear Setback requirements required for the PUD as a whole and not as the Setback requirements for each particular Structure placed in such PUD.
11. A PUD may allow for a mixture of any permitted or Conditional Uses allowed as set forth in Section 240 of these Bylaws for the applicable District.
12. The Planning Commission will consider the adequacy of the proposed vehicular and pedestrian circulation including parking with particular attention to safety. The Planning

Commission will review the Master Plan for safe and adequate pedestrian movement between phases of development within the PUD (if any) and surrounding existing development.

13. The Planning Commission will review the proposed primary collector roadway system and parking plan for how the PUD integrates with the surrounding existing development. In the VA and SP Districts and a portion of the C District (Route 4 Section from Killington Road to West Hill Road), the provisions of Section 456 shall apply except where topography and vehicular safety are deemed to reduce such accesses further.
14. The applicant(s) shall provide the plan for water, wastewater and other utilities for the PUD.
15. All proposed development within a PUD shall be subject to the Zoning Bylaws as outlined in:
  - A. The height requirements of Section 426;
  - B. The parking requirements of Section 432;
  - C. The signage requirements of Section 440;
16. Unique natural features, as identified in the Town Plan, shall be preserved.
17. A PUD application shall include a plan for Open Space to provide for flexibility in site and Lot layout, building design, placement and clustering of buildings, subject to the following requirements:
  - A. In any PUD, the amount of land area dedicated to Open Space shall be no less than 5% of the land subject to the PUD application.
  - B. Land to be preserved as Open Space shall be of a size, type and location to meet its intended use. Where possible, Open Space should be contiguous to other existing or potential Open Space uses on adjoining properties.
  - C. Ownership and/or control of Open Space areas should be consistent with the best means of maintaining the open-space resources in the PUD.
  - D. Land to be preserved as Open Space shall be protected from future development and environmental damage through appropriate and enforceable legal mechanisms approved by the Planning Commission such as Open Space agreement(s) or easement(s) with the Town, home or unit association bylaws and/or deed restrictions, or where requested by the applicant, conservation easement/restrictions(s) with a land trust. Such legal mechanism shall:
    - i. Restrict future building and removal of soil, trees, and other natural features, except as is consistent with conservation, recreation, or agricultural uses, or uses accessory to the permitted use.

- ii. Set forth whether the Open Space is for the benefit of PUD residents or patrons only, or may be open to the public.
    - iii. Provide that residents of the PUD shall have access to the Open Space at all times, except where access to the Open Space would harm sensitive environmental features.
  - E. If the proposed PUD results in and/or is designed to provide lands available for municipal or public purposes, the Planning Commission as a condition(s) of its approval, may establish conditions regarding the ownership, use, and maintenance of the Open Space lands as it deems necessary to assure the preservation of such lands for their intended purpose(s).
  - F. The Open Space provision of the PUD approval shall be legally enforceable by the Town of Killington or by a dedicated land trust in the case of a conservation easement, and shall run with the land.
  - G. The approved PUD plan shall identify all areas of Open Space and shall contain the following statement: “The lands designated on this plan as Open Space, shall remain Open Space in perpetuity. The Open Space restrictions and/or requirements of the PUD approval in connection with which this plan is filed, shall run with the land and shall apply to any and all future conveyances of any and all of the area designated as Open Space on this plan, unless the Planning Commission of the Town of Killington specifically approves otherwise.”
18. The Planning Commission may attach such reasonable conditions and safeguards to the PUD Approval as may be necessary to implement the purposes of Title 24 V.S.A. Chapter 117 and these Zoning Bylaws, in order to protect the public health, safety and welfare.
  19. PUD approvals under this Section shall be issued for an indefinite period of time.
  20. A number of PUDs were approved under prior zoning bylaws and have been fully or partially built-out. These existing PUDs were approved with specific expiration dates. The following provisions are included to guide the future development and/or use of these existing PUDs:
    - A. Where a previously-issued PUD Approval is in the midst of its term at the time of the adoption of these Zoning Bylaws, the term of the PUD Approval shall be extended indefinitely as long as the applicant is in compliance with the permit conditions.
    - B. Where the term of a previously-issued PUD approval has expired at the time of the adoption of these Zoning Bylaws, the filing of an application for an amendment to the previously-issued PUD Approval, the PUD Approval shall be deemed reinstated during the pendency of the amendment application. If the Planning Commission approves the amendment to the PUD Approval, the term of the PUD Approval as amended shall continue indefinitely.

- C. To the extent that the undeveloped lands within a previously approved PUD were used to partially satisfy the density requirements for a developed portion of the PUD, the remaining available density calculation for the undeveloped land must take into account the density that has been previously used for the developed portions.
- D. Subject to the density calculation described above, the landowner who owns or controls the undeveloped lands under a partially developed PUD shall have the right to seek amendments to the PUD to develop such undeveloped lands without the consent of the owners of any separately owned development lots previously created under the PUD approval.
- E. To the extent that a previously developed portion of a PUD has been sold off as a separate lot owned by third parties, the developed lot shall be grand fathered as to its density. The owners of that developed separate lot (or their homeowners association, if applicable) may not seek to amend the PUD approval to use any lands outside of their Lot, or to use any portion of the density owned or controlled by the owner of the undeveloped portion of the PUD located outside of their Lot, without the written consent of the owner of the impacted lands.
- F. To the extent that the owners of a previously developed portion of a PUD, or their homeowners association, seek an amendment to the PUD that does not impact the lands outside of their Lot or use any portion of the density owned or controlled by the owner of the undeveloped portion of the PUD located outside of their Lot, the consent of the owner of the undeveloped portion of the PUD shall not be required.

**SECTION 510 –SITE PLAN APPROVAL**

A prerequisite to the approval of any use, with the exceptions hereafter set forth, is the approval of site plans by the Planning Commission after public hearing with respect to the adequacy of traffic access, circulation and parking, landscaping and screening and such other items as may be the subject of site plan approval under 24 V.S.A. § 4416.

During a Site Plan Approval review, the Planning Commission may consider the following standards and conditions:

- 1. Exemptions From Site Plan Approval Requirement - The following are exempt from the requirement for Site Plan Approval:
  - A. One or Two Family Dwellings and Accessory Uses which are not Home Occupations; however, One or Two Family Dwellings within a PUD shall be subject to Site Plan Approval review as set forth in Section 510(3)(G) below;
  - B. Any use requiring a Conditional Use Permit;
  - C. Minor changes, additions, or other Land Development to existing uses, which the Planning Commission determines after a review of properly submitted

application, will have no significant impact upon adequacy of traffic access, circulation and parking, or landscaping and screening.

D. Signs

2. Site Plan Approval Regulatory Requirements & Process:

- A. Pursuant to 24 V.S.A. § 4416, the Planning Commission shall have the authority to review and approve, approve with conditions and safeguards, or to deny an application for a Site Plan Approval pursuant to the standards in these Zoning Bylaws.
- B. Applications for a Site Plan Approval may involve a single property or multiple properties and one owner or multiple owners. Applications involving multiple owners or properties shall identify all owners and properties to be reviewed. The review process shall be the same with multiple owners and properties as with a single owner or property.
- C. A Site Plan Approval review shall be conducted in compliance with the provisions of Title 24 V.S.A. Chapter 117, Subchapter 10 (§§ 4460-4464).
- D. A Site Plan Approval review hearings shall be warned pursuant to the requirements of Section 500 of these Zoning Bylaws. Site Plan Approval and PUD Approval may be applied for, warned and hearings held concurrently and inclusively.
- E. The Planning Commission shall hold at least one public hearing, upon public notice, prior to issuing a decision.
- F. The Planning Commission shall issue a decision within 45 days after the adjournment of the Site Plan Approval review hearing.
- G. The Planning Commission may issue Site Plan Approval for a proposed development not subject to PUD Approval for a specific period of time, not to exceed five (5) years. Where the subject property is subject to PUD Approval, the Planning Commission may issue Site Plan Approval for a period of time not to exceed six (6) years; provided, however, that the expiration dates described above shall not apply once the applicant uses the Site Plan Approval by obtaining a Zoning Permit and commencing the construction of the improvements approved in the Site Plan Approval. The issuance of Site Plan Approval shall not relieve the applicant(s), or his successors or assigns, from the obligation to obtain a Zoning Permit under Section 610 of these Zoning Bylaws. No development approved in a Site Plan Approval shall be commenced until such Zoning Permit is obtained.
- H. If the proposed development is located on land subject to a PUD Approval, a Site Plan Approval shall be issued only if the proposed development complies with all applicable provisions and conditions of the PUD Approval.

3. A Site Plan Approval application shall be submitted to the Planning Commission containing the following information:
  - A. Name, address and signature of the applicant(s).
  - B. Name, address and signature(s) of the land owner(s) of record.
  - C. Name and address of owners of contiguous properties.
  - D. Accurate scale map of the lands included in the Site Plan Approval application including:
    - i. the date the map was prepared;
    - ii. true north arrow.
  - E. Survey of the property showing existing features, including contours if required by the Planning Commission. The survey shall show existing Structures, utility easements, rights-of-way, streets, zoning classification, existing surface water (brooks, ponds, etc.) if any, and the locations of proposed Structures with distance from Lot lines indicated.
  - F. Detailed Site Plan showing proposed location, floor plans and elevations including height, spacing, land use areas including architectural interrelationships of all Buildings and Open Spaces, streets, Driveways, pedestrian walkways, traffic circulation, parking and loading spaces, utility service lines proposed (placement of poles), unique or man-made features, surface water drainage, landscaping plans including site grading, planting design and screening or fencing.
  - G. For One or Two Family Dwellings within a PUD, the Site Plan shall show the location of the footprints of the residence and any accessory Structures on the residential property, the Driveway, water supply, and wastewater disposal system.
  - H. Details of any waivers and/or modifications (if any) being sought during the Site Plan Approval review pursuant to Section 510(12) (A)-(G) below.
  - I. Construction sequence and anticipated time schedule for completing each phase for Building, Parking Spaces and landscaping areas of entire development.
  - J. If the lands subject to the Site Plan Approval are part of an approved PUD, the Site Plan Approval application will include both maps, the location and size of proposed Signs, and a written statement showing enough of the area surrounding the proposed development to demonstrate the interrelationship of the subject property to the PUD and adjoining uses, both existing and proposed.

- K. All proposed development shall be subject to the dimensional, use and other requirements of Section 240 of these Zoning Bylaws.
- 4. If there is a mix of commercial and residential uses, the proposed improvements shall be so arranged as to insure visual and acoustical privacy to residents in the development. Adequacy of landscaping and screening in this regard will be reviewed to achieve maximum compatibility and protection to adjacent property. The landscaping buffer standards of Section 450 of these Zoning Bylaws shall be adhered to.
- 5. Water, sewer and utilities shall be demonstrated to be adequate for the proposed development subject to the Site Plan Approval review. All sewage and other effluent disposal shall be designed so it will not become a public health hazard. In addition, the Planning Commission may require evidence that the project will not have an adverse affect on existing water, sewer and utility service for other users in the Town. The Planning Commission shall have authority to consider off-site impacts on water, sewer and utilities and may condition Site Plan Approval to minimize those impacts.
- 6. The Planning Commission will consider the adequacy of the proposed vehicular and pedestrian circulation including parking with particular attention to safety. The Planning Commission will review the Site Plan for safe and adequate pedestrian movement between the proposed development subject to the Site Plan Approval application and surrounding existing development.
- 7. Adequacy of landscaping and screening in regard to achieving maximum compatibility and protection to adjacent property.
- 8. The Planning Commission will review the roadway system and parking plan for how the proposed development integrates with the surrounding existing development.
  - A. Roadways, parking and unloading facilities shall be designed so as not to cause unreasonable highway congestion or unsafe traffic conditions.
  - B. The parking requirements of Section 432 shall apply in all Districts.
  - C. Loading and delivery facilities shall be screened and measures taken to minimize noise and exhaust impacts on adjacent property. Large, multi-use developments shall designate a common loading and delivery area to serve businesses that may not have direct access to a public roadway. All delivery area shall be safely integrated with any pedestrian areas.
  - D. In the VA and SP Districts and a portion of the C District, the provisions of Section 456 shall apply except where topography and vehicular safety are deemed to reduce such accesses further.
- 9. In reviewing any application for development the Planning Commission shall take into account impacts the project may have on the ability of the Town to provide services and municipal facilities. This may include but is not limited to services related to recreation, library, roads and road maintenance. As a condition of Site Plan approval the Planning

Commission may require the applicant to provide services and/or amenities to compensate or ease the burden on municipal services.

10. The Planning Commission may impose conditions with respect to other matters specified in the Zoning Bylaws.
11. The Planning Commission may require from the owner, for the benefit of the Town, a performance bond with a good and sufficient surety, in an amount sufficient to cover the full costs of public or private roadways and utility lines, in situations where Buildings are to be constructed prior to the completion of such roadways or utility lines.
12. The Planning Commission may grant waivers to reduce Setbacks where commercial development is a permitted or conditional use provided under one or more of the following circumstances:
  - A. The applicant(s) has presented a plan that provides protection to adjacent property through adequate design, landscaping, screening and/or other remedy.
  - B. Adjoining property owners submit a joint development proposal that requires the reduction or elimination of Setbacks between the adjoining properties and meets the requirements of (a) above.
  - C. The waiver is for a Structure(s) providing for disability accessibility or public safety.
  - D. The waiver will provide for innovative development that would not be possible without the waiver.
  - E. A joint development plan should address the use of a common Driveway for access to the entire project.
  - F. The plan would allow for parking lots to be placed in the rear of the development.
13. The Planning Commission shall consider the need for access to the project by public transportation which may include an area designed for a bus pull-off.
14. Zoning Permit shall be issued according to the following:
  - A. If, during the effective period of a Site Plan Approval, the applicant for such approval, or his successors or assigns, applies for a zoning permit as to any Land Development approved in such Site Plan Approval (including any portion of the entire Land Development so approved), and if, in the opinion of the Zoning Administrator, the Land Development for which such zoning permit is requested complies with all applicable provisions and conditions of the Site Plan Approval, then as to that Land Development such Site Plan Approval shall be deemed to satisfy the requirements of Section 510 and the Zoning Administrator shall issue a permit under Section 610.

- B. If, however, the Land Development specified in such zoning permit application is in any way different from the Land Development approved in the Site Plan Approval, the Zoning Administrator shall not issue a zoning permit until the Planning Commission, after public hearing, determines that the Land Development specified in the zoning application is substantially the same as the Land Development approved in the Site Plan Approval. If the Planning Commission determines that such Land Development is not substantially the same as that approved in the Site Plan Approval, the Zoning Administrator shall not issue a zoning permit for such Land Development until the Planning Commission issues an amended PUD Approval in compliance with Section 510 above.

## ARTICLE VI - ADMINISTRATION AND ENFORCEMENT

### SECTION 600 – ADMINISTRATIVE OFFICER

The Administrative Officer shall be nominated for a term of three years by the Planning Commission, with the approval of the Board of Selectmen. The Administrative Officer shall literally enforce the provisions of these Zoning Bylaws and shall not have the power to permit any Land Development which is not in conformance with these Zoning Bylaws. The Administrative Officer shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these Zoning Bylaws.

An Administrative Officer may be removed for cause at any time by the legislative body after consultation with the Planning Commission.

### SECTION 605 - ADMINISTRATIVE REVIEW

1. The Administrative Officer may review and approve certain new developments and amendments to previously approved development that would otherwise require Planning Commission review and approval under the following conditions:
  - A. The administrative approval will not have a substantial impact on any of the standards set forth in these Zoning Bylaws; and
  - B. The administrative approval will not have a substantial impact on any findings of fact of the most recent approval.
2. Prior to granting administrative approval the Administrative Officer will advise the Chair of the Planning Commission of such proposed approval. The Chair at his or her discretion may require a public hearing in place of administrative approval.
3. Any decision made by the Administrative Officer may be appealed as provided in Section 760 of these Zoning Bylaws.

## SECTION 610 - ZONING PERMITS

1. No person shall commence any Land Development or change in use without a zoning permit issued by the Administrative Officer.

2. Applications:

All applications for a zoning permit shall be accompanied by two copies of each of the following:

- A. A plot plan showing Driveways, parking areas, location of well and septic areas, property lines (with dimensions), location of proposed and/or existing Buildings and Structures. Locations and width of existing rights-of-way and proposed rights-of-way for roadways to service other lands, and such other information as may be necessary to determine and provide for the enforcement of these Zoning Bylaws. This plan is to be drawn to an appropriate scale so as to adequately show the sizes and relationships of the various parts of the plan.
- B. Floor plans of each Floor of the proposed Building and elevations of each exposure of the purposed Building drawn to scale, or in the case of minor alterations, a written description of such elevations.
- C. A statement of all existing and proposed uses.
- D. A statement that the applicant is the owner of the land and a reference to the book and page in the Town Land Records of the applicant's deed.
- E. A permit from the appropriate state or local government approving a wastewater treatment system capable of supporting the requested use.
- F. A plan showing how all surface drainage affected by excavation, clearing and other site work will be controlled to prevent erosion debris and other loose materials from filling any drainage course, road or private or public property.

3. Fee:

The fee for a zoning permit shall be established by the Board of Selectmen. Any permit submitted to complete the activities authorized and paid for under a now expired zoning permit shall not receive credit for these previously paid fees in computing the new fee amount. The applicant shall also pay any fees required by State Statute for recording in the Town Land Records.

4. Issuance of Permit:

A zoning permit shall be issued by the Administrative Officer only if the application, fee, and plot plan have been properly filed and other requirements of these Zoning Bylaws have been complied with.

5. Posting of Permit:

Within three (3) days following the issuance of a zoning permit, the Administrative Officer shall:

- A. Make a copy of the permit available to the listers of the municipality.
- B. Post a copy of the permit in at least one public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit.

The applicant shall post a notice of the permit on a form prescribed by the Town within view from the public right-of-way most nearly adjacent to the subject property until the expiration of fifteen days from the date of issuance of the permit. It is the responsibility of the applicant to obtain the notice of permit form from the Town and to properly post the notice of permit.

6. Time of Issuance:

If the Administrative Officer fails to act with regard to a complete application for a permit within thirty (30) days by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31<sup>st</sup> day.

If denied, the Administrative Officer shall so notify the applicant in writing stating his reasons therefore.

7. Effective Date:

No such permit shall take effect until the adjudication of that appeal by the ZBA is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

8. Permit Expiration:

All activities as authorized by the issuance of the permit shall be commenced within nine (9) months and completed within two (2) years of the date of issue or final determination of any appeal, whichever is later, or the permit shall become null and void and shall not be extended or renewed by the Zoning Administrator. However, if completion has been delayed by litigation, proceedings to secure other permits, proceedings to secure title through foreclosure, or because of market conditions, the Zoning Administrator shall extend the completion dates for a reasonable period of time. Applications and issuance of a new zoning permit shall be required to complete the activities as initiated under the original permit.

9. Deposit:

A refundable deposit shall be established by the Board of Selectmen. The deposit shall be paid at the time of issuance of the Zoning Permit. The deposit shall be refunded to the applicant within thirty (30) days after the Administrative Officer has issued a Certificate of Occupancy for the project. This deposit shall not generate interest for the applicant. If the applicant does not request a Certificate of Occupancy within the Effective Date of the zoning permit or if the Administrative Officer, upon inspection, determines that occupancy or use occurred prior to such a request, the deposit shall be forfeited to the Town.

#### SECTION 615 – ZONING PERMIT FOR DIVISION OF LAND

1. No person shall commence the division of a parcel of land into two or more Lots, or delete a Lot line or change a Lot line, without a zoning permit issued by the Administrative Officer.
2. No division of land shall create a Lot that does not meet or exceed the minimum size for the Zoning District in which the land is located.
3. No division of land shall create a Lot that does not have frontage on a public road or access to a public road by permanent easement or right- of-way of record of at least thirty five (35) feet in width.
4. Applications: All applications for a zoning permit for the division of land shall be accompanied by the following:
  - A. A completed application for a zoning permit and accompanied by an application fee as established by the Board of Selectmen.
  - B. One copy of an accurate survey showing all proposed Lot line changes including Lot line deletions and Lot line adjustments. The survey shall be signed by a registered Vermont surveyor.
  - C. One mylar and one paper copy of the survey accompanied by the appropriate recording fee.
5. Upon issuance of a permit, the Administrative Officer shall note the permit approval on the mylar and shall deliver the mylar and the recording fee to the Town Clerk for recording in the land records of the Town of Killington.
6. Subsections (3), (4), (5), (6), and (7) of Section 610 of these Zoning Bylaws shall apply to applications and permits subject to Section 615.
7. Any decision made by the Administrative Officer may be appealed as provided in Section 760 of these Zoning Bylaws.

## SECTION 630 - ENFORCEMENT

The Administrative Officer shall enforce the provisions of this Regulation as provided in Sections §4451 and §4452 of the Act.

## SECTION 640 - CERTIFICATE OF OCCUPANCY OR USE

### 1. Requirement:

It shall be unlawful to use, occupy or permit the use or occupancy of any land or Structure or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or Structure until a Certificate of Occupancy is issued therefore by the Administrative Officer stating that the proposed use of land or Structure conforms to the provisions of these Zoning Bylaws. A Certificate of Occupancy shall not be issued until the following conditions are met:

- A. A certificate of compliance is submitted by a professional engineer that the construction of any wastewater treatment system has been completed in accordance with the approved plans of the Division of Protection, Vermont State Agency of Environmental Conservation or is in compliance with Town health regulations.
- B. For all structures requiring such approval, documentary proof from the Vermont Division of Fire Safety that the building is authorized to be occupied.
- C. The property owner has access to a public highway pursuant to a driveway/highway access permit issued by the Town of Killington in the case of Town highways, or the Vermont Agency of Transportation in the case of for State highways, and has met all of the requirements of the applicable highway access permit.

### 2. Issuance

Within five (5) days after notification that a Building or Structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Administrative Officer to make a final inspection thereof and issue a Certificate of Occupancy if the land, Building, Structure, or part thereof is found to conform with the provisions of these Zoning Bylaws.

### 3. Refusal:

If the Administrative Officer, after such final inspection, refuses to issue a Certificate of Occupancy, he shall state such refusal and cause therefore in writing and immediately mail notice or such refusal to the applicant at the address indicated on the application.

## ARTICLE VII BOARD OF ADJUSTMENT

### SECTION 700 - APPOINTMENT AND TERM OF THE ZBA

The Board of Selectmen shall determine the number and terms of office of members of the ZBA, and appoint, fill vacancies, and remove the members in accordance with 24 V.S.A. § 4460.

### SECTION 710 - GENERAL POWERS

The ZBA is a body with limited powers. Except as specifically provided herein and in accordance with the provisions of Title 24 V.S.A. Chapter 117, the ZBA may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation of enforcement thereof, or allow any use not permitted by the Zoning Bylaws or any other by law.

### SECTION 712 - GENERAL DUTIES

The ZBA shall be charged with the proper interpretation of the Zoning Bylaws and their consequent application within the municipality and with the administration of the procedures allocated to it by its Zoning Bylaws including the following:

1. To hear and rule on appeals concerning any order, requirement, decision, or determinations made by the Administrative Officer in the administration and enforcement of these Zoning Bylaws.
2. To hear and grant or deny a request for a variance in accordance with Section 770.
3. To approve or deny a request for a Conditional Use in accordance with Section 300.

### SECTION 720 - OFFICERS OF THE ZBA

The ZBA shall elect its own officers and adopt rules of procedure subject to the provisions of these Zoning Bylaws and the Act. The officers of the ZBA may administer oaths and compel attendance of witnesses and the production of material pertinent to any issue under appeal.

### SECTION 730 - MEETINGS

Meetings of the ZBA shall be held at the call of the Chairman and at such times as the ZBA may determine. All such meetings shall be open to the public.

### SECTION 740 - RULES OF PROCEDURE AND ETHICS

The ZBA shall adopt, from time to time, such rules and regulations as it determines are necessary to effect the provisions of these Zoning Bylaws in accordance with Sections §4461 of the Act.

## SECTION 750 - FEES

The fee for an application to the ZBA shall be established by the Board of Selectmen.

## SECTION 751 - PUBLIC NOTICE; ZBA

A warned public hearing shall be required for conditional use reviews, variances and Administrative Officer appeals. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:

1. Publication of the date, time, place and purpose of the hearing in a newspaper of general circulation in the municipality affected.
2. Posting of the same information in three or more public places within the municipality.
3. Written notification to the applicant.

It shall be the responsibility of the applicant to provide the following public notice not less than 15 days prior to the date of the public hearing:

- A. Posting of the notice within view of the public right-of-way most nearly adjacent to the property for which the application is made.
- B. Written notification to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

## SECTION 760 - APPEALS TO THE ZBA

An interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the Secretary of the ZBA or with the Town Clerk if no such secretary has been elected.

## SECTION 761 - TIME FOR FILING

If the appeal is made with respect to any decision or act of the Administrative Officer, such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice of appeal shall be filed with such Administrative Officer.

## SECTION 762 - INTERESTED PERSONS

For the purposes of these Zoning Bylaws, an interested person means any one of the following:

1. A person owning title to property affected by a bylaw who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. The Town of Killington and any adjoining municipality.
3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under these Zoning Bylaws, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan of the Town.
4. Any ten persons owning real property within the Town who, by signed petition to the ZBA in a proceeding where the plan or a bylaw is at issue in any appeal, allege that any relief requested by a person under this article, if granted, will not be in accord with the policies, purposes or terms of the plan of the Town.
5. Any department and administrative subdivision of this State owning property or any interest therein within the Town, and the Agency of Development and Community Affairs of this State.

#### SECTION 763 - NOTICE OF APPEAL

Any notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant and the alleged grounds why such requested relief is believed appropriate under the circumstances.

#### SECTION 765 - HEARING ON APPEAL

The ZBA shall set a date and place for a public hearing of an appeal under these Zoning Bylaws, which shall be within sixty (60) days of the filing of the notice of such appeal.

The ZBA shall give public notice of the hearing, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date.

Any person or body empowered by Section 762 of these Zoning Bylaws to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at such hearing.

All hearings held under this Section shall be open to the public.

#### SECTION 766 - DECISIONS OF APPEALS

The ZBA shall render any decision, which shall include findings of fact, within forty-five (45) days after completing the hearing, in accordance with Section 4464 of the Act. If the ZBA fails to act within this period, it shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the last day of such period.

## SECTION 767 - MINUTES AND FINDINGS

The ZBA shall keep minutes of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk as a public record.

All findings and actions of the ZBA shall be in writing and shall include the reasons for the action taken. Findings shall be detailed and in specific terms, discussing the cause of the decisions, beyond such generalities as "in the interest of the public safety, health and general welfare." In every instance, a statement of the facts upon which such action is based shall appear in the minutes.

## SECTION 770 - SPECIFIC POWERS OF THE ZBA TO GRANT VARIANCES

On an appeal, under Section 760 of these Zoning Bylaws, wherein a variance from the provisions of the Zoning Bylaws constitutes the relief requested by the appellant, the ZBA may grant such variances, and render a decision in favor of the appellant, if all the following facts are found by the ZBA and are specified in its decision:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Bylaws in the neighborhood or District in which the property is located;
2. That as a result of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaws and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. That such unnecessary hardship has not been created by the appellant;
4. That the variance, if authorized, will not alter the essential character of the neighborhood or District in which the property is located. Nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, and
5. That the variance, if authorized, will represent the minimum variance that will afford relief, and will represent the least modification possible of the Zoning Bylaws and of the comprehensive plan.

In rendering a decision in favor of an appellant under this Section, the ZBA may attach such conditions to a variance as it may consider necessary and appropriate under the circumstances to implement the purposes of this Zoning Ordinance, Title 24 V.S.A. Chapter 117 and the Town Plan.

The issuance of a variance shall not relieve the appellant of the obligation to obtain a zoning permit under Section 440 or 610 of these Zoning Bylaws, and that permit shall only be issued if the proposed Land Development complies with all applicable provisions of these Zoning Bylaws, except as varied by the ZBA. The Land Development approved by the ZBA in such variance proceeding shall not be commenced until such zoning permit is obtained.

#### ARTICLE VIII- AMENDMENTS AND REPEALS

##### SECTION 800

Any provision of this Zoning Bylaw, as well as the boundaries of the various Districts established herein, may be amended or repealed subject to the provisions of Sections §4441 and §4442 of the Act.

#### ARTICLE IX - PUBLIC NOTICE

##### SECTION 900

Any public notice required for public hearing under these Zoning Bylaws shall be given by the publication of the date, place and purpose of such hearing in a newspaper of general circulation in the municipality, and the posting of such notice in one or more public places within the municipality not less than fifteen (15) days prior to the date of the public hearing.

#### ARTICLE X - SEVERABILITY AND EFFECTIVE DATE

##### SECTION 1000 - SEVERABILITY

Should any court of competent jurisdiction judge any provision of this Zoning Bylaw to be invalid, such judgment shall not affect the validity of the Zoning Bylaw as a whole or any part other than the part so declared to be invalid.

##### SECTION 1010 - EFFECTIVE DATE OF AMENDMENT OF REPEAL

This Zoning Bylaw shall take effect in accordance with the voting and other procedures contained in Section §4442 of the Act.

##### SECTION 1012 - REPEAL OF PRIOR ZONING ORDINANCE

Upon the effective date of these Zoning Bylaws, the Zoning Regulations enacted March 1967, March 2, 1971 and June 25, 1979 and last amended August, 11, 2008 is hereby repealed.