

# **Town of Killington, Vermont**

## **Land Development Regulations**



TOWN OF  
**KILLINGTON**  
VERMONT

**Adopted June 25, 1979**  
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ARTICLE I - ENACTMENT, INTENT & DEFINITIONS OF LAND DEVELOPMENT REGULATIONS

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 a unified Land Development Bylaw that consolidates Zoning and Subdivision Bylaws for the Town of Killington which are set forth in the text and maps that constitute these Land Development Regulations. These Land Development Regulations shall be known as the "Town of Killington Land Development Regulations" or as the "Land Development Regulations."

SECTION 110 - INTENT

It is the intent of these Land Development Regulations 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 Land Development Regulations, 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 Land Development Regulations, 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:** A distinct unit that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and

sanitation, provided there is compliance with all the following: the property has sufficient wastewater capacity, and the accessory unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

**Accessory Use:** A use of land, Buildings or Structures subordinate to and customarily incidental to a permitted principal 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 (AO):** An individual serving a three-year term that has been nominated by the Planning Commission and approved by the Selectboard to administer these Land Development Regulations. In the Town of Killington, the Zoning Administrator is the AO.

**Affordable Housing:** Either of the following: (A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following: (i) the county median income, as defined by the U.S. Department of Housing and Urban Development (“HUD”);(ii) the standard metropolitan statistical area median income if the Town is located in such an area, as defined by HUD; or (iii) the statewide median income, as defined by HUD. OR (B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following: (i) the county median income, as defined by HUD; (ii) the standard metropolitan statistical area median income if the Town is located in such an area, as defined by HUD; or (iii) the statewide median income, as defined by HUD.

**Affordable Housing Development:** A housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are Affordable Housing units. Affordable Housing units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as may be provided in these Land Development Regulations.

**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.

**Area served by municipal sewer and water infrastructure:** (i) an area where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and not prohibited by: (I) State regulations or permits; (II) identified capacity constraints; or (III) municipally adopted service and capacity agreements; or (ii) an area established by the Town by ordinance or bylaw where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and which may exclude: (I) flood hazard or inundation areas as established by statute, river corridors or fluvial erosion areas as established by statute, shorelands, areas within a zoning district or overlay district the purpose of which is natural resource protection, and wherever year-round residential development is not allowed; (II) areas with identified service limits established by State regulations or permits, identified capacity constraints, or municipally adopted service and capacity agreements; (III) areas served by sewer and water to address an identified community-scale public health hazard or environmental hazard; (IV) areas serving a mobile home park that is not within an area planned for year-round residential growth; (V) areas serving an industrial

site or park; (VI) areas where service lines are located to serve the areas described in subdivisions (III)–(V) of this subdivision (ii), but no connections or expansions are permitted; or (VII) areas that, through an approved Planned Unit Development, prohibit year-round residential development.

**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 Land Development Regulations. A Loft used as a Bedroom shall count toward total Dwelling Unit Capacity.

**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 Principal 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 vertical distance from the **Grade Plane** to the average height of the highest roof surface.

**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.

**Cannabis:** All parts of the Cannabis sativa L. plant including leaves, seeds, extracted resin, oil, or any derivative, preparation, or mixture thereof. Cannabis does not include hemp or hemp

products as defined in 6 V.S.A. § 562, nor does it include mature stalks of the plant or fiber produced from the stalks, nor the sterilized seed of the plant, nor oil or cake made from the seed of the plant nor any derivative, preparation, or mixture thereof.

**Cannabis, cultivation, indoor.** An establishment licensed by the state Cannabis Control Board to grow cannabis plants within an enclosed structure using artificial lighting.

**Cannabis, cultivation, outdoor.** An establishment licensed by the state Cannabis Control Board to grow cannabis plants on an expanse of open or cleared ground or under a structure that maintains a sunlit environment.

**Cannabis, integrated establishment.** An establishment licensed by the state Cannabis Control Board to engage in cannabis cultivation, wholesale, manufacture, testing, and retail activities

**Cannabis, Integrated License.** Integrated License means a person holding an integrated license from the Vermont Cannabis Control Board may engage in the activities of each of the license types, but these licenses are only available to "an applicant and its affiliates that hold a dispensary registration on April 1, 2022." 7 V.S.A. § 909.

**Cannabis, manufacturing.** An establishment licensed by the state Cannabis Control Board to produce cannabis products, including but not limited to concentrated cannabis, edibles, ointments, tinctures, or vaporizer cartridges containing cannabis oil, and to sell such products to licensed cannabis retailers.

**Cannabis, retail.** An establishment licensed by the state Cannabis Control Board to sell cannabis products to adults 21 years of age and older for off-site consumption.

**Cannabis, testing.** A laboratory licensed by the state Cannabis Control Board to provide testing of cannabis or cannabis products, including but not limited to cannabinoid and contaminant content testing.

**Cannabis, wholesale.** An establishment licensed by the state Cannabis Control Board to store, process, and sell cannabis and cannabis products to licensed cannabis retailers.

**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 are 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.

**Color Temperature:** The measurement of light within the electromagnetic spectrum. Otherwise known as Correlated Color Temperature (CCT), it is expressed in units of measure known as Kelvins (see definition).

**Conditional Use:** A use that may be allowed in the applicable zoning district if the DRB determines following a public hearing that the proposed use conforms to the general and specific standards set forth in the Land Development Regulations.

**Corner Lot:** A lot that has frontage at the intersection of two or more public highways or vehicular rights-of-way with approved (or preexisting) highway access.

**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.

**DRB:** The Town of Killington Development Review Board.

**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 Land Development Regulations 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.

**Double-Frontage Lot:** A lot that is either a **Corner Lot** or a **Through Lot**.

**Down-Shielded Lighting:** Lighting fixtures where the light source (e.g. the bulb) is recessed within an opaque canopy or shielding that prevents light from shining upward and aims it toward the ground to minimize **Nuisance Lighting**. Down-shielded lighting does not necessarily limit the illumination extending below the 90 degree horizontal plane of the fixture (as occurs with **Full Cutoff Lighting** fixtures).

**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 have one Bedroom for every two occupants for which the Dwelling Unit is intended to provide accommodation. For example, a three-bedroom Dwelling Unit shall have a Dwelling Unit Capacity of six people. 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 Land Development Regulations.

**NOTE:** If there is a state or local wastewater permit which requires a different Dwelling Unit Capacity, then that permit shall 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. This definition shall have no further operation, force, or effect once a Short-Term Rental Ordinance adopted by the Selectboard becomes effective.

**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.

**Footcandle:** A measure of illumination equivalent to one Lumen within one Square Foot of space.

**Full Cutoff Lighting:** Where direct source lighting is not emitted above a 90 degree horizontal plane extending from the bottom of the lighting fixture as it is aimed directly toward the ground;

and where lighting intensity does not exceed 10% illumination above a 10 degree angle extending below this horizontal plane (as may occur with **Down-Shielded Lighting** fixtures).

**Glare:** Light that enters the eye from direct source lighting fixtures, or from indirect sources (e.g. reflective surfaces) that cause reduced visibility and/or visual discomfort.

**Grade Plane:** A reference plane representing the average of finished ground level adjoining a Building at exterior walls.

**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.

**Health Care Facility:** A public or private facility that provides services for health maintenance and the treatment of mental or physical conditions. (See Health Services.)

**Health Services:** Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks and miscellaneous types of medical supplies and services.

**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, Hotel/Lodge suite of rooms, One Family

Dwelling, Two Family Dwelling, condominium, townhouse capable of being occupied by one Family or group of individuals at one time shall be one Dwelling Unit. A Hotel/Lodge suite of rooms, One Family Dwelling, Two Family Dwelling, townhouse, or condominium with provisions for locking off a portion or portions of the residential space to serve more than one Family or group of individuals (a “Lockoff Unit”) shall still be counted as one Independently Occupied Unit for zoning purposes, regardless of the number of Lockoff Units that can be independently occupied by one Family or group of individuals, provided that if the Lockoff Unit may be legally conveyed to a third party, it will then be defined as a separate Independently Occupied Unit subject to the Minimum Lot Area requirements established by Sections 240.6 and 240.12.

**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 402 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.

**Kelvins (K):** Units of measure that visually describe **Color Temperature**, which for residential and commercial purposes typically range from 2,000 to 6,500 (K). Temperatures below 3000 K are “warm” and appear reddish in color, where temperatures above 4000 K appear bluish or “cool”. Temperatures in between are considered “cool white” or neutral white light but still emanate a slightly bluish hue.

**Land Development:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, 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. In addition, in the Residential 1 District, Residential 3 District, Hamlet District, Commercial District, Business District, Valley District, Sherburne Pass District, and Commercial/ Business District, tree removal constitutes Land Development if it involves removing trees from an unimproved property within twenty (20) feet of any property boundary, provided that the removal of dead or diseased trees and the removal of trees in accordance with a forest management plan approved through the Current Use / Use Value Appraisal program or by the Vermont Department of Forest, Parks and Recreation, or the removal of trees solely within the approved driveway boundaries outlined in a highway access permit, does not constitute Land Development. For purposes of the foregoing, an “unimproved property” is one that has not been improved with a habitable residential structure or with a commercial structure designed for human occupancy.

**Land Development Regulations:** These Town of Killington Land Development Regulations adopted by the Town pursuant to the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117 (the “Act”).

**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.

**Light Trespass (Spillover):** Light that spills beyond a property boundary and causes nuisance to the inhabitants of neighboring properties or upon a public right-of-way (e.g. a public road).

**Lighting Fixture:** A complete unit consisting of a light source combined with a supporting structure and other components which distribute and aim lighting outside of a building. Fixtures may be attached to any part of a building or structure; free standing poles; or located upon the ground.

**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 gross contiguous area within the property lines of a Lot, calculated by horizontal projection, including any part thereof lying within the boundaries of an existing non-public vehicular right-of-way or a proposed public or non-public vehicular right-of-way.

**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 these Land Development Regulations.

**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.

**Mixed-Use:** A building or lot containing residential and non-residential uses, excluding any accessory uses.

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

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

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

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

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

**Nuisance Lighting:** Includes, but is not limited to, **Glare, Light Trespass, and Skyglow.**

**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 (10), 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.

**Permitted Use:** Any use allowed in a zoning district under these Regulations and subject to the restrictions applicable to that zoning district for which the A/O may issue a permit without public hearing or notice unless otherwise subject to the approval of the DRB.

**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 Land Development Regulations.

**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.

**Selectboard:** The Town of Killington Selectboard.

**Setback:** The distance from the Lot Frontage or a property line to a Building or Structure measured to its nearest wall, porch, or deck; but not to steps or normal roof overhang. For purposes of defining or measuring a Setback, fences, signs, stone walls and at-grade patios shall not constitute Structures. **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. Setbacks will not apply to the boundary between neighboring PUDs located in the Ski Village District and Ski Village II District.

**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).

**Skyglow:** Exterior lighting which is directly or diffusely emitted upward thereby causing unnecessary illumination of the night sky that is observable from distant locations (i.e. light pollution).

**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 DRB during PUD or Site Plan Review, it shall mean up to 90 days.

**Through Lot:** A lot that has frontage on two or more non-intersecting public highways or vehicular rights-of-way with approved (or pre-existing) highway access.

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

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

**Travel Trailer:** A mobile vehicle or camper van 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.

**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) PDK Public Open Space – Killington District
- c) FR Forest Reserve District
- d) R1 Residential 1 District
- e) R3 Residential 3 District
- f) HM Hamlet District

- g) SV Ski Village District
- h) C-KB Commercial District – Killington Basin
- i) C-R4 Commercial District - Route 4
- j) B Business District
- k) CB Commercial/Business District
- l) VA Valley District
- m) SP Sherburne Pass District
- n) SVII Ski Village II District
- o) FP Foster's Peak District

SECTION 210 - ZONING MAP

The location and boundaries of Zoning districts are established according to the Zoning Map. The Zoning Map is hereby adopted as part of these Land Development Regulations. The official Zoning Map is on file in the Town Clerk's Office. Any uncertainty as to the location of a district or boundary on the Zoning Map shall be resolved by the A/O with appeals of any such decision made to the DRB.

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 Land Development Regulations.

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 Land Development Regulations.

District lines indicated as approximately following streams shall be construed as following the center lines of such streams.

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 Land Development Regulations.

SECTION 230 - APPLICATION OF LAND DEVELOPMENT REGULATIONS

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

SECTION 240 - USES, DIMENSIONAL REQUIREMENTS, DENSITY 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 A/O 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 DRB. 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 resources with dedicated and exclusive right of way) are permitted uses in all Districts.

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.

In case of a conflict between the requirements in the following tables and other applicable Sections containing more stringent requirements, other Sections shall control.

Notwithstanding the information set forth in the following tables, in any District that is served by municipal sewer and water infrastructure that allows residential development, multi-unit dwellings with four or fewer units are a permitted use.

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	<u>USES – NOT IN PUD</u> One Or Two Family Dwellings below 1700'; Agriculture; Outdoor Recreation;	<u>NOT IN PUD</u> Extraction of earth materials, including sand, soil and gravel; Parking lots and Structures which are not in Reasonable

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	<p>Family Dwelling*: 10 Acres  Minimum Lot Area per Two Family Dwelling*: 10 Acres  Minimum Lot Area: 10 Acres</p> <p><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</p>	<p><u>USES – IN PUD</u>  One- or Two-Family Dwellings or any combination thereof below 1700’.</p>	<p>Proximity to the use being served; One- or Two-Family Dwellings above 1700’ Telecommunications Facilities.</p> <p><u>IN PUD</u>  One- or Two-Family Dwellings above 1700’; Telecommunications Facilities.</p>
240.3 Residential I District	<p><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.  Minimum Lot Area any other use: 40,000 sq.ft.</p> <p><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.</p>	<p><u>USES- NOT IN PUD</u>  One- or Two-Family Dwellings;  Outdoor Recreation;  School;  Community Center;  Church;  Day Care Center.</p> <p><u>USES IN PUD</u>  One and Two and multi Family Dwellings or any combination thereof.</p>	<p><u>NOT IN PUD</u>  Public Utility;  Telecommunications Facilities</p> <p><u>IN PUD</u>  Telecommunications Facilities.</p>
240.4 Residential 3 District	<p><u>REQUIREMENTS- NOT IN PUD</u>  Front Setback*: Minimum 25'  Side Setback*: Minimum 25'  Rear Setback*: Minimum 25'  Maximum Coverage*: 5%</p>	<p><u>USES- NOT IN PUD</u>  One- or Two-Family Dwellings;  Agriculture;  Outdoor Recreation;  School;</p>	<p><u>NOT IN PUD</u>  Telecommunications Facilities</p>

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	<p>Minimum Lot Area per One Family Dwelling*: 3 Acres  Minimum Lot Area per Two Family Dwelling*: 3 Acres  Minimum Lot Area: 3 Acres.</p> <p><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</p>	<p>Community Center;  Church;  Day Care Center.</p> <p><u>USES IN PUD</u>  One- or Two-Family Dwellings.</p>	<p><u>IN PUD</u>  Telecommunications Facilities.</p>
240.5 Hamlet	<p>Front Setback*: Minimum 20'  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 a common side wall to a Building on the same property line.</p>	<p>One, Two and Multi-Family Dwellings;  Hotel/Lodge; Office;  Retail Store;  Craft Shop;  Public Assembly Use;  Post Office; Restaurant &amp; Lounge; Personal Services.</p>	<p>Auto Service Station;  Fast Food Restaurant, ;  Telecommunications Facilities</p>
240.6 Ski Village District	<p><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.</p>	<p><u>USES- NOT IN PUD</u>  One- and Two-Family Dwellings.</p>	<p><u>NOT IN PUD</u>  Telecommunications Facilities.</p>

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	<p><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 and Two-Family Dwelling Unit*: 6,500 sq.ft.            Minimum Lot Area per Independently Occupied Unit*: 6,100sq.ft.</p> <p><u>REQUIREMENTS- WHETHER OR NOT IN PUD</u>            Setback from Falls Brook and from the Juggernaut Trail: Minimum 50' as measured horizontally</p>	<p><u>USES IN PUD</u>            One, Two and Multi-Family Dwellings;            Hotel/Lodge;            Restaurant &amp; Lounge;            Office;            Nightclub*;            Retail Store;            Craft Shop;            Light Industry*;            Personal Services;            Private Club;            Public Assembly Use;            Seasonal Public Use;            School;            Outdoor Recreation;            Recreational facility;            Parking Structure;            Day Care Center; or any combination thereof.</p> <p>*Nightclub and Light Industry are specifically <u>excluded</u> from the Ski Village-Falls Brook Section.</p>	<p><u>IN PUD</u>            Fast Food Restaurant, Pico and Killington Basin Sections only;            Telecommunications Facilities.</p>
240.7 Commercial District	<p><u>REQUIREMENTS- NOT IN PUD</u>            Front Setback*: Minimum 15'            Side Setback*: Minimum 15'            Rear Setback*: Minimum 25'            Maximum Coverage*: 70%            Minimum Lot Area per One Family Dwelling*: 10,000 sq.ft.            Minimum Lot Area per Two Family Dwelling*: 10,000 sq.ft.            Minimum Lot Area per Multifamily Dwelling unit*: 6,500 sq.ft.</p>	<p><u>USES- WHETHER OR NOT IN PUD</u>            One, Two, Multi-Family Dwellings;            Hotel/Lodge;            Restaurant &amp; Lounge;            Office;            Nightclub (Killington Basin Section only);            Retail Store;            Personal Services;            Private Club;            Post Office;            Public Assembly Use;            Outdoor Recreation;</p>	<p><u>NOT IN PUD</u>            Extractions of earth materials, including sand, soil, and gravel            Auto Service Station;            Light Industry; Fast Food Restaurant.</p>

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	<p>Minimum Lot Area: 10,000 sq.ft.</p> <p><u>REQUIREMENTS- IN PUD</u>            Front Setbacks*: Minimum 15'            Side Setback*: Minimum 15'            Rear Setback*: Minimum 25'            Maximum Coverage*: 70%            Minimum Lot Area: 5 Acres            Minimum Lot Area per Dwelling Unit*: 6,500 sq.ft.</p> <p><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'</p>	<p>Day Care Center;            School;            Or in PUD any Combination or the above.</p>	<p><u>IN PUD</u>            Auto Service Station;            Light Industry; Fast Food Restaurant.</p> <p><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; Cannabis Establishments in the Killington Basin Section only (See Sec. 302).</p>
240.8 Business District	<p><u>REQUIREMENTS- NOT IN PUD</u>            Front Setback*: Minimum 15'            Side Setback*: Minimum 15'            Rear Setback*: Minimum 25'            Maximum Coverage*: 70%            Minimum Lot Area per One Family Dwelling*: 10,000 sq.ft.            Minimum Lot Area per Two Family Dwelling*: 10,000 sq.ft.            Minimum Lot Area: 10,000 sq.ft.</p>	<p><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.</p>	<p><u>NOT IN PUD</u>            Multi-Family Dwellings;            Community Center;            Public Assembly;            Day Care Center</p>
	<p><u>REQUIREMENTS- IN PUD</u>            Front Setbacks*: Minimum 15'            Side Setback*: Minimum 50'</p>	<p><u>USES IN PUD</u>            One, Two and Multi-Family Dwellings;            Hotel/Lodge;</p>	<p><u>IN PUD</u>            None</p>

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	Rear Setback*: Minimum 50' Maximum Coverage*: 70% Minimum Lot Area: 5 Acres Minimum Lot Area per Dwelling Unit*: 6,500 sq.ft.	Restaurant & Lounge; Office; Retail Store; Personal Services; <del>Church;</del> Community Center; Public Assembly Use; Recreational facility; School; Day Care Center; or any combination thereof. Nightclubs are 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 20' Side Setback*: Minimum 25' Rear Setback*: Minimum 25' Maximum Coverage*: 10% Minimum Lot Area per One Family Dwelling*: 10 Acres Minimum Lot Area per Two Family Dwelling*: 10 Acres Minimum Lot Area: 10 Acres.	<u>USES - NOT IN PUD</u> One- and Two-Family Dwellings; Agriculture; forestry;	<u>NOT IN PUD</u> Telecommunications Facilities; Indoor Cannabis Cultivation, Cannabis manufacturing, Testing and Wholesale
	<u>REQUIREMENTS- IN PUD</u> Front Setbacks*: Minimum 20' Side Setback*: Minimum 25' Rear Setback*: Minimum 25' 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; Indoor Cannabis Cultivation; Cannabis Manufacturing, Testing and Wholesale
240.10 Sherburne Pass District	<u>REQUIREMENTS- NOT IN PUD</u>	<u>USES- NOT IN PUD</u> One- and Two-Family Dwellings.	<u>NOT IN PUD</u> Telecommunications Facilities.

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
	<p>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</p> <p><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</p> <p><u>REQUIREMENTS- WHETHER OR NOT IN PUD</u>  Setbacks from Appalachian Trail: Minimum 50'; Setback from Route 4: Minimum 100'</p>	<p><u>USES IN PUD</u>  One, Two and Multi-Family Dwellings;  Hotel/Lodge;  Restaurant &amp; Lounge;  Office;  Retail Store;  Personal Services;  Ski Museum;  Community Center;  or any combination thereof.</p>	<p><u>IN PUD</u>  Auto Service Station;  Telecommunications Facilities.</p>
240.11 Commercial/ Business District	<p><u>REQUIREMENTS- NOT IN PUD</u>  Front Setback*: Minimum 15'  Side Setback*: Minimum 15'  Rear Setback*: Minimum 25'  Maximum Coverage*: 70%  Minimum Lot Area per One Family Dwelling*: 10,000 sq.ft.  Minimum Lot Area per Two Family Dwelling*: 10,000 sq.ft.  Minimum Lot Area: 10,000 sq.ft.</p> <p><u>REQUIREMENTS- IN PUD</u>  Front Setbacks*: Minimum 15'  Side Setback*: Minimum 50'  Rear Setback*: Minimum 50'  Maximum Coverage*: 70%  Minimum Lot Area: 5 Acres  Minimum Lot Area per Dwelling Unit*: 6,500 sq.ft.</p>	<p><u>USES – NOT IN PUD</u>  One- and Two-Family Dwellings;  Hotel/Lodge;  Restaurant &amp; Lounge;  Office;  Retail Store;  Personal Services;  Day Care Center;</p> <p><u>USES IN PUD</u>  One, Two and Multi-Family Dwellings;  Hotel/Lodge;  Restaurant &amp; Lounge;  Office;  Retail Store;  Personal Services;  Church;  Community Center;  Public Assembly Use;</p>	<p><u>NOT IN PUD</u>  Telecommunications Facilities;  Multi-Family Dwellings;  Public Assembly;  Community Center.</p> <p><u>IN PUD</u>  Telecommunications Facilities.</p>

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
		Recreational facility; School; Day Care Center; or any combination thereof.	
		Nightclubs are specifically <u>excluded</u> from the Commercial Business District.	
240.12 Ski Village II District	<u>REQUIREMENTS- NOT IN PUD</u> Front Setback*: Minimum 15' Side Setback*: Minimum 15' 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> Setback from a Public Right-of-Way: Minimum 15' Setback from property lines: Minimum 25', except that there is no minimum setback from the property line of Ski Resort property and public lands leased to the Ski Resort.	<u>USES IN PUD</u> Outdoor Recreation; Public assembly; Seasonal Public Use; Hotel/Lodge; One, Two, and Multifamily Dwellings; Retail stores; Restaurant/cafe/deli; Outdoor dining; Temporary retail stands; Seasonal Public Use; 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.
	Subject to the above, Front Setbacks*: Minimum 0' Side Setback*: Minimum 0' Rear Setback*: Minimum 0'  Maximum Coverage*: 25% Minimum Lot Area: 5 Acres Minimum Lot Area per Two Family Dwelling*: 6,500 sq.ft. Minimum Lot Area per Independently Occupied Unit*: 4,000 sq. ft.		

DISTRICT	DIMENSIONAL REQUIREMENTS	PERMITTED USES	CONDITIONAL USES
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“\*” = If residential development is not in an area served by municipal sewer and water infrastructure, the stated “Minimum Lot Area”, Setbacks and Lot Coverage requirements shall apply. If no standard “Minimum Lot Area” is stated, there is no Minimum Lot Area imposed. In any area served by municipal sewer and water infrastructure that allows residential development, the Minimum Lot Area per Dwelling Unit shall be no greater than 8,700 sq. ft. (i.e., 5 units per acre), density standards for Multifamily dwellings shall not be more restrictive than those required for single-family dwellings, and the Setbacks and Lot Coverage requirements shall be reduced if necessary to achieve the permitted density when taking height limitations into account. In addition, in any area served by municipal sewer and water infrastructure that allows residential development, the Minimum Lot Area per Dwelling Unit for any Affordable Housing Development shall be no greater than 6,200 sq. ft. (i.e., 7 units per acre), which may be achieved in part by exceeding the applicable height limitations by one floor provided that the structure complies with the Vermont Fire and Building Safety Code.

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 of 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.

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. 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.

The initial Site Plan Approval application in the SVII District 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 designated 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%		One- and Two-Family Dwellings; Hotel/Lodge, Public

Minimum Lot Area: 10 acres  
Minimum Lot Area per  
Independently Occupied  
Unit: 23,500 sq.ft.

Assembly Use; related  
roads and utilities.

\* Setback requirements shall be interpreted as Setback requirements 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 DRB shall be allowed only if the DRB 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 effect 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. Land Development Regulations and ordinances then in effect.
  - E. Utilization of renewable energy resources.
2. Specific Standards:

The proposed use shall comply with all specific provisions of these Land Development Regulations 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.

- A. 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 constructed so as not to cause unreasonable highway congestion or unsafe traffic conditions and shall be at least 25 feet in width.
- B. Public Utilities shall, in addition to 300 (1) and 300 (2)(0) 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.
- C. 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 Land Development Regulations (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)(0) (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 DRB 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 Selectboard, 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.
- D. Fast Food Restaurants shall, in addition to Section 300(1) and 300(2)(0) 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 Land Development Regulations.
  - 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 DRB 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 Land Development Regulations 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 DRB.
  - xii. The DRB may also restrict hours of operation and impose a litter control plan for the proposed Fast Food Restaurant.
- E. Foster's Peak Lodging and Public assembly shall, in addition to Section 300(1)(A) and (2)(0) 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 40 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.
- F. 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)(0) above, comply with the following:

- i. The parking lot or Structure shall only be permitted if the DRB requires additional parking for a specific project as a result of Site Plan Review or Planned Unit Development Review.
- ii. The parking lot or Structure 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.

G. 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)(0) 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 DRB to conduct a complete review of the project. The DRB 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 DRB 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 DRB 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 DRB shall consider the overall design of new Structures including proposed scale, location, materials and colors. The DRB 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 DRB 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 Land Development Regulations.

The DRB 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 Land Development Regulations.

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 antennas, 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 DRB 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 antennas 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 antennas is not more than 8 square feet, and if the antennas 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 Land Development Regulations 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 Land Development Regulations 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 DRB 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 DRB 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.

### Consistency with Federal Law

In addition to other findings required by these Land Development Regulations, the DRB 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.

5. 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 principal 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 DRB 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.

6. Standards For Conditional Use Review

Telecommunications Facilities permitted under Section 240 shall be permitted only if the DRB 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 Land Development Regulations 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;

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

- i. Telecommunication Facilities are permitted as conditional uses, upon compliance with these Land Development Regulations and the tables of Section 240 of the Land Development Regulations. 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.

An application for the Telecommunications Facility shall not be approved unless the DRB 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 DRB, 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.

1. Towers must be designed 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.
2. 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 DRB 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.

3. Utility or service lines shall be buried to the extent practicable. If the DRB 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.
4. 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.
5. 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 DRB 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.
6. Towers, antennas and any necessary support Structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridge lines and hilltops.
7. 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.
8. 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 a minimum of ten feet in depth with a minimum of six feet in height 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.
9. 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 DRB 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.

10. 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.
11. The DRB 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.
12. The DRB 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.

7. 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 A/O provided the antennas meet the applicable requirements of these Land Development Regulations, 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 Land Development Regulations except that a 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 any District.
- c. Antennas 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 Land Development Regulations 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.

8. 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 Land Development Regulations 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 A/O certifying the continuing safe operation of every facility/tower installed subject to these Land Development Regulations. 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 DRB. 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 DRB 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 DRB 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.

9. 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 application and securing a zoning permit to build or alter a wireless Telecommunications Facility shall be set by the Selectboard.
- C. No permit shall be issued until the applicant has paid the costs and expenses of any person(s) hired by the Town to do an independent technical review.
- D. The Zoning A/O shall be the agent to enforce the provisions of these Land Development Regulations.

SECTION 302 - CONDITIONAL USE – CANNABIS ESTABLISHMENTS.

1. Purpose: The purpose of these bylaws is to provide for the placement of cannabis establishments in suitable locations. Restrictions on the location and operation of such facilities are necessary to protect residential neighborhoods, civic and educational institutions, and public gathering places from any adverse secondary impacts associated with cannabis establishments and to ensure that such uses operate in a safe manner.

2. Enactment and authority: The Town of Killington has adopted these Bylaws in accordance with and as authorized by the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, Subchapter 007.

3. Applicability: The provisions of this section shall apply to all cannabis establishments within the Town of Killington. Cannabis establishments are individually defined under the Definitions Section of the Bylaws Section 120. These Bylaw changes do not repeal or replace any part of the Town of Killington Land Development Regulations, except as specifically stated below. All requirements of the Land Development Regulations with respect to application processing, review procedures, including but not limited to zoning permit issuance and conditional use review, continue to apply.

4. Use: Cannabis establishments including cannabis cultivator (indoor), cannabis manufacturers, cannabis wholesaler, cannabis retailer, and cannabis testing laboratory are allowed within designated zoning districts as shown on the below Table of Uses.

	RR-1	RR 3	SVVI	SVII	HAM	Comm KB	Comm RT 4	CB	Forest Res	Valley	Sherburne Pass
Cannabis Cultivator, Indoor	X	X	X	X	X	C	X	X	X	C	X
Cannabis Manufacturer	X	X	X	X	X	C	X	X	X	C	X
Cannabis Retailer	X	X	X	X	X	C	X	X	X	X	X
Cannabis Testing Laboratory	X	X	X	X	X	C	X	X	X	C	X

Cannabis Wholesaler	X	X	X	X	X	C	X	X	X	C	X
Cannabis, Integrated	X	X	X	X	X	C	X	X	X	X	X

X= Prohibited C= Allowed subject to conditional use review

In accordance with 7 V.S.A. §869(f)(2), a cultivator licensed under 7 V.S.A. Chapter 33, who initiates cultivation of cannabis outdoors on a parcel of land shall not be regulated in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A).

5. Application Requirements: In addition to the requirements of this section of the Bylaw, Applications for Cannabis Establishments shall include the information required under Article III CONDITIONAL USES and Article V PLANNED UNIT DEVELOPMENT and, SITE PLAN REVIEW of the Town of Killington Land Development Regulations. Hearing notice provisions shall follow the requirements under SECTION 500 - PUBLIC NOTICE OF HEARING; SITE PLAN REVIEW AND PLANNED UNIT DEVELOPMENT.

6. General Standards: The following standards apply to cannabis establishments in all districts in which such uses are allowed. Cannabis establishments are also subject to Conditional Use Review under ARTICLE III of the Land Development Regulations. If there is a conflict between a standard in this section and a standard in another section of the Land Development Regulations, the more restrictive shall apply. The following standards are to be used by the DRB in reviewing applications and shall serve as requirements for approval of such applications.

- a. Use. The retail sale of cannabis and/or cannabis products as defined in 7 V.S.A. §863(2) shall not be permitted as an accessory use or be permitted as an accessory to the manufacturing, cultivation, wholesaling, or warehousing of cannabis, or to other non-retail operations related to cannabis permitted by 7 V.S.A. §863. If a cannabis establishment wants to change to another type of establishment, such change of use must be reviewed and approved under these Bylaws.
- b. Home Occupations. Cannabis retail establishments shall not be permitted as a home occupation under Section 406.
- c. Size Limitation. A cannabis retailer shall not exceed 3,000 square feet in retail floor area. Retail floor area shall mean the floor area dedicated to the display and sale of cannabis and cannabis products and shall not include storage, employee areas, and other spaces not accessible to customers or members of the public.
- d. Location. At a minimum, no cannabis retailer shall be located within the following distances from the specified land uses listed below. If any of the specified land uses listed below subsequently locates within the distance noted in Section VII(d)(1) of a lawfully existing cannabis retailer, this provision shall not be used to eliminate or restrict that cannabis retailer.

1. 500 feet of a licensed childcare facility or any public or private school certified by the Vermont Agency of Education. The distance shall be measured as the shortest straight-line distance between the nearest point of the property line in question to the nearest point of the property line where the cannabis retailer will be located.
  2. 250 feet of a municipal park or recreational facility. The distance shall be measured as the shortest straight-line distance between the nearest point of the property line in question to the nearest point of the property line where the cannabis retailer will be located.
- e. Signage & Advertisement. Cannabis establishments may be identified with signage in accordance Section 440 of the Land Development Regulations and the following:
1. Signage placed on the interior of windows or doors is prohibited except as follows:
    - a. All public entrances must have a non-interior illuminated warning sign indicating that only those age twenty-one (21) or older may enter. Such signs shall be no larger than four (4) square feet in area.
- f. Display of Merchandise & Outdoor Storage. Displays of merchandise and outdoor storage associated with a cannabis retailer shall be in accordance with this section.
1. Cannabis plants, cannabis, cannabis products, and paraphernalia shall be screened from view from any exterior windows and must not be displayed in a location that would be visible from a public vantage point.
  2. Outdoor storage of cannabis plants, cannabis, cannabis products, paraphernalia, or related supplies is prohibited.
  3. Cannabis retailers must not conduct outdoor sales of any kind.
  4. Any common areas shared with other uses or another cannabis establishment within the same building, including, but not limited to storage areas, hallways, and building facilities, must be clearly identified as such within the application. Display and/or storage of cannabis plants, cannabis, cannabis products, and paraphernalia within common areas shared with other uses is prohibited.
- g. Parking Requirements. Parking for cannabis establishments shall be in accordance with Section 432 – Off Street Loading and Parking of the Land Development Regulations.

- h. Landscaping & Screening. Landscaping and screening for cannabis establishments shall be required per the provisions of Section 450 of the Land Development Regulations.
- i. Odor Control. A cannabis wholesaler, manufacturer, retailer, indoor cultivator, or testing laboratory shall not discharge, cause suffer, allow, or permit the emission any odor outside the building or to the floors above where the establishment is located. All odor-producing materials and processes shall be confined and controlled in a manner such that odors from such materials and processes are not discharged to the atmosphere.
- j. Security Plan. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into cannabis establishments and the theft of cannabis and cannabis products must be provided at all times.
  - 1. Applications for cannabis establishments shall include a security plan that explains how the establishment will be secured including:
    - a. A description of how all points of entry (including but not limited to doors, windows, HVAC grates and roof accesses) will be secured; and
    - b. A description of how all cannabis and cannabis products will be secured within the operation; and
    - c. A description of on-site security provided during hours of operation; and
    - d. A description of all alarm systems and automatic lighting or other systems that will be used to provide security after hours.
- k. Additional Conditions. The DRB may impose such reasonable conditions on a permit as may be necessary to protect the public health, safety, and welfare, and obtain compliance with the requirements of these Bylaws.

## ARTICLE IV GENERAL REGULATIONS

### SECTION 400 NONCONFORMING USES AND NONCONFORMING STRUCTURES

A Nonconformity created by the enactment of these Land Development Regulations, 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 DRB, but only if the DRB 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 Land Development Regulations, 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 Land Development Regulations 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 DRB may permit such reconstruction with such time period and on such terms as are equitable.

Section 400 (1-4) shall not apply to Nonconforming Signs, which are controlled by Sections 440 (1).

### SECTION 402 - PROHIBITED USES

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

1. Dumping, storing, burying, reducing, disposing or burning garbage, refuse, scrap metal, gravel / tailings, rubber, offal or dead animals, except as 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, 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 PERMIT REQUIREMENTS

- 1 The following Structures are exempt from the requirement to obtain a Zoning Permit provided they meet all dimensional requirements of these Land Development Regulations, including Setbacks, for the district in which the Structure is to be located:
  - A. 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.
  - B. 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.
  - C. 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.
- 2 operation of a Short-Term Rental shall not require a zoning permit once a Short-Term Rental Ordinance adopted by the Selectboard becomes effective.

#### SECTION 404 - MISCELLANEOUS REQUIREMENTS

##### Existing Non-Conforming Lots

Any Lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Land Development Regulations 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 non-conforming Lots within the R-3 Districts which are in an affiliated ownership status on the effective date of these Land Development Regulations 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 Land Development Regulations.

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. An interested person may appeal the decision of the A/O pursuant to Section 760 of these Bylaws.

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

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 DRB. Examples of generally acceptable Home Occupations in the Town are, workshops, beauty shops, offices and lodging accommodations for not more than 8 paying guests.

Notwithstanding anything else in these Land Development Regulations, these Land Development Regulations 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 Land Development Regulations relating to Home Occupations, this paragraph shall control.

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

1. The operation of a Short-Term Rental shall not require a zoning permit once the adoption of a Short-Term Rental Ordinance by the Selectboard becomes effective, pursuant to 24 V.S.A. § 2291(29). Until the date that such an ordinance becomes effective, 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 Administrator issues the requisite Short-Term Rental Registration.

2. An application for Short-Term Rental Registration shall, for Dwelling Units with a Dwelling Unit Capacity 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 a Dwelling Unit Capacity 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.

3. If the Dwelling Unit Capacity of 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 DRB pursuant to §510 in addition to a Short-Term Rental Registration.

4. No Registration for the Short-Term Rental of a Dwelling Unit shall be issued unless the applicant has self-certified (for Dwelling Units with a Dwelling Unit Capacity of 8 or less) or has obtained and submitted to the Zoning Administrator (for Dwelling Units with a Dwelling

Unit Capacity of greater than 8 occupants) the documents and permits set forth in subsection 2 above.

5. The duration of a Short-Term Rental Registration shall be for a period established by the Selectboard.

6. 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 Dwelling Unit Capacity of the Short-Term Rental Dwelling Unit.

7. The use of a Dwelling Unit by a number of lessees, guests, or other persons in excess of the Dwelling Unit Capacity of a Short-Term Rental Dwelling Unit shall constitute a violation of this Section 407 by the Registration holder and/or the person with whom the Registration holder contracted for the Short-Term Rental of the Dwelling Unit and is subject to enforcement in accordance with Section 630.

#### 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 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 exists on the effective date of these Land Development Regulations.

#### 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 Land Development Regulations.

#### SECTION 417 - ACCESSORY DWELLING UNIT

A. There shall be permitted one Accessory Dwelling Unit on an owner-occupied lot, which is within or appurtenant to a single-family dwelling, provided the property and the Accessory Dwelling Unit complies with the same criteria applicable to a single-family dwelling as specified in these Land Development Regulations.

B. A proposed Accessory Dwelling Unit that exceeds the size limitation set forth in Section 120 of these Land Development Regulations shall obtain a Conditional Use Permit from the DRB 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 one access Driveway, provided that the Highway Foreman in consultation with the Fire Chief may permit a Lot to be served by more than one access Driveway if it is determined that the size, topography or configuration of a Lot warrant the need therefor and if it is determined that such additional access Driveway(s) are not likely to create unsafe traffic conditions. No access Driveway shall 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 Land Development Regulations 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 Land Development Regulations 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

1. The maximum Building Height for all Structures in all Districts shall be limited to 40 feet except as provided below.
2. Within an approved PUD the maximum Building Height shall be limited as follows:
  - A. Within a PUD within the Commercial District, the Business District and the SV District, the maximum Building Height shall not exceed 68 feet.
  - B. Buildings with a Building Height in excess of 40 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. 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.
  - C. In the SVII District, the maximum Building Height shall be limited to 70 feet, provided that notwithstanding the foregoing, one building element per 200 Dwelling Units may be constructed to a maximum Building Height of 90 feet, subject to an absolute height limitation of 100 feet provided that building elements which exceed the Building Height limit of 70 feet shall be located at least 200 feet from one another, measured edge to edge. In addition, the maximum Building Height applicable to a Base Lodge within the SVII District shall be limited to 70 feet, provided that 30% of the Base Lodge may be constructed to an absolute height limitation of 110 feet.
3. The following additional provisions shall be in force with respect to Building Heights:
  - A. Buildings with a Building Height in excess of 40 feet shall be subject to the conditions of Section 426(2)(B) (i) through (iii).
  - B. Except in the SVII District, in areas of development containing high density residential units and buildings in excess of 45 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 DRB 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 with under Structure parking shall be allowed one level of parking Structure to be above grade, or partially above grade, and not count toward the permitted number of stories provided the overall height is in conformance with these Land Development Regulations. 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.
- D. 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.
- E. Except to the extent that the provisions above establish an “absolute height limitation”, nothing herein contained shall be interpreted to limit or restrict the height of silos, church spires, cupolas, skylights, bell towers, fire observation towers, windmills, ski lifts, antennas and similar Structures. The height of Telecommunications Facilities shall be controlled by Section 301 of these Land Development Regulations.

4. In any area served by municipal sewer and water infrastructure that allows residential development, the Minimum Lot Area per Dwelling Unit for any Affordable Housing Development shall be no greater than 6,200 sq. ft. (i.e., 7 units per acre), which may be achieved in part by exceeding the applicable height limitations by one floor provided that the structure complies with the Vermont Fire and Building Safety Code.

#### SECTION 427 – LIGHTING

1. Purpose and Intent: The purpose of this Section of the Land Development Regulations is to prevent light trespass resulting from poorly designed or improperly installed exterior lighting that may cause unsafe conditions for vehicular traffic, nuisance for adjoining property-owners, nighttime skyglow, and unnecessary energy consumption.

2. Application:

- A. All exterior lighting shall be designed to eliminate direct light or glare directed toward public highways, adjacent properties, and the night sky; and shall be compatible with the surrounding area.
- B. 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(10) Sign Illumination.
- C. The following shall apply to the Business (B), Commercial (C), and Commercial/Business (CB) zoning districts.

- i. The correlated color temperature of any exterior illumination shall not exceed 3,000 Kelvin (K).
- ii. All exterior illumination shall not exceed 1.0 footcandle at an adjacent residential property line.
- iii. All exterior illumination shall employ full cutoff lighting fixtures.
- iv. Freestanding light fixtures shall not exceed twenty feet (20) in height.

#### 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 Land Development Regulations 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 Land Development Regulations.

All parking shall comply with the short-term rental requirements of the Town of Killington.

2. Required Off Street Parking Spaces

(See Section 432(16) 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 workstation
Auto Service Stations without repair facilities	1 space per 4 pump stations.
Home Occupations	1 space 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.	0.7 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.	$[(\text{Total occupancy minus number of seats}) \div 5] + (\text{number of seats} \div 3)$ ; excluding seasonal outdoor seating.
Office, banks and other financial institutions	1 space per 300 square feet of Gross Floor Area
Medical Offices and clinics	1 space per 300 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 4 seats

Meeting rooms, convention facilities, or other places of assembly without fixed seating	1 space per 100 square feet of Gross Floor Area
Residential One Family & Two Family Dwelling Units	Greater of 2 spaces per Dwelling Unit or .8 spaces per Bedroom (provided that in any district that is served by municipal sewer and water infrastructure, no more than 1 space per Dwelling Unit is required). 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 (provided that in any district that is served by municipal sewer and water infrastructure, no more than 1 space per Dwelling Unit is required).
Restaurants, other than drive-in food or self-service Restaurant	1 space per 3 seats, excluding seasonal outdoor seating.
Fast Food Restaurant	1 space per 60 square feet of Gross Floor Area
Retail Store, Personal Services and Craft Shop	1 space per 250 sq. ft. of Gross Floor Area
Shopping Center	1 space per 300 sq. ft. of Gross Floor Area
Vehicle rental	1 space per 300 sq. ft. of Gross Floor Area + 1 space per 10 rental vehicles
Other uses	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.

To maintain the purpose and intent of these Land Development Regulations the DRB 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.

3. Replacement Parking

When future development requires the closing of an existing parking lot, the DRB 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 300 feet to the use being served unless otherwise approved by the DRB during Site Plan Review. The DRB 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 drive-in 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) apply to the 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. Site Plan Review and Shared Parking

After the submission of a parking layout plan showing the location of the Parking Spaces required under Section 432(2), the DRB may reduce the non-residential parking requirement of a project undergoing Site Plan Review by up to 80% for such uses that the DRB determines will be generating a demand for parking during periods when other uses are not in operation, provides public transit services, or which will share parking demand

with other uses. Any such reduction or shared parking areas shall apply to the uses specified by the DRB and be within 300 feet of said non-residential uses.

Any Parking Spaces eliminated pursuant to this Section may 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 DRB.

A. Mixed-Use PUDs

After the submission of a parking layout showing the location of the Parking Spaces required under Section 432(2), the DRB may reduce the non-residential parking requirements in a mixed use Planned Unit Development by up to 80% where the DRB 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 DRB 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 DRB at the time of application only.

The DRB 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 DRB, a PUD amendment approval in accordance with Sections 510 and 505 of these Land Development Regulations.

B. 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 DRB 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.

Restaurants in lodging facilities open to the public may fall under Section 432, #6 Site Plan Review and Shared Parking.

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 DRB 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.

7. 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 DRB determines that the projected demand for a specific non-residential use may be less initially, the DRB 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.

8. "Future Parking" Area Standards

The maximum grade of any area designated as "Future Parking" 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 DRB has reduced the amount of Parking Spaces required for this property pursuant to the provisions of Sections 432(8) and 432(9) of the Land Development Regulations 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.

9. Reinstatement of Reduced Parking

The DRB 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.

10. Parking Space Size

Parking Spaces shall be a minimum of 9 feet wide by 18 feet in length and ADA compliant. Parking Spaces sheltered from snow may be reduced to 8.5 feet wide by 18 feet long.

11. Dumpsters

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

12. Parking Aisles

Parking aisles serving single rows of parking shall be 22 feet in width and those serving double rows of parking shall be 24 feet in width. In those situations where a parking management plan approved by the DRB provides for parking lot personnel to control parking lot traffic and to direct vehicles to utilize the designed parking configuration, or where parking spaces are sheltered from snow, parking aisles serving double rows of parking may,

at the discretion of the DRB in consultation with the Fire Department, be reduced to no less than 20 feet in width should the DRB determine that the narrower aisles are safe. The DRB may engage a civil engineer pursuant to Section 610.2 to review the applicant's parking management plan and to assist the DRB with its determination whether to approve the applicant's request to reduce the aisle width.

13. Location and Landscaping

Parking and loading spaces shall be located in reasonable proximity to the use being served, unless otherwise permitted by the DRB. All parking areas shall designate the minimum number of clearly identifiable parking spaces to comply with the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design. The DRB may require the applicant to preserve existing vegetative screening between the parking area and Killington Road and / or adjacent properties, or plant additional vegetative screening between the parking area, and Killington Road and/or adjacent properties.

14. 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 DRB may approve a procedure for trucking snow from the area.

15. 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.

16. 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 or 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.

17. Modification of Loading Requirements

Loading spaces, as specified in Section 432(16) may be increased, decreased, or not required by the DRB 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 Land Development Regulations is to promote the public welfare and safety by regulating signage. It is intended hereby to minimize distractions and obstructions that may contribute to the number and severity of crashes, to reduce hazards caused by signs in either disrepair or of deficient construction, to promote traffic safety; and to preserve and protect the natural beauty, open space, community environment, and aesthetics of the Town.
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 terms expressed plurally may be referenced singularly and vice-versus unless stipulated otherwise.

**Accessory Sign**: A sign of similar design, color, and materials that serves as an accessory to a principal Commercial Sign for the purpose of informing the public of special prices, sales, and other information which changes over time. An accessory sign may be attached to a Freestanding, Flat, or Overhanging Sign.

**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.

**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.

**Banner Sign**: A sign that is intended to be displayed for a limited time and which is comprehensively regulated by the **Town of Killington Banner Ordinance**, adopted by the Selectboard of the Town of Killington on April 21<sup>st</sup>, 2008.

**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.

**Commercial Sign:** A sign that is either a **Multi-business Sign** or is used for an **Independently Operated Business**.

**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 conducted 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 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 within 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.

**Official Business Directional Sign (OBDS):** An official Vermont Agency of Transportation designated business directional sign, which includes a legal business name, logo, directional arrow, and mileage from the business. Black OBDS signs indicate businesses, where brown OBDS signs represent recreational areas.

**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 Land Development Regulations, as amended from time to time, including all subsections and parts thereof.

**Sign:** Any Structure, display, device, or representation (excluding the flag, pennant, or insignia of any nation, state or town) 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. Each readable surface shall be deemed to be one Sign under this definition. A sign or device shall be considered one sign even though both sides are used, unless otherwise stipulated within the Land Development Regulations.

**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.

3. 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.

A. No signs of a fixed or permanent nature shall be allowed in any zoning district except as specifically provided herein.

- B. A zoning permit issued by the A/O shall be required for the installation, enlargement, extension, relocation of, or substantial change to any sign within the Town, unless specifically exempted in **Section 440(7)** below.
- C. Any On-Premises signs installed along any State highway (e.g. US Route 4 or Vermont State Route 100) must comply with 10 V.S.A. § 493. On-premise signs.
- D. Banner Signs are regulated through the Town of Killington Banner Ordinance.

4. **Submission:**

Applications for required zoning permits for permanent or free-standing signs shall be made on forms provided by the Administrative Officer, and shall have attached the following information and signatures:

- A. Name, address, telephone number, and signature(s) of the applicant and the lot Owner (if different from the applicant).
- B. A signage plan including the design specifications, location of the building, structure, and lot where the sign would be attached, a sketch of how the sign and structures appear together, a copy of the Town tax map clearly indicating the lot boundary lines, town highway rights-of-way, any relevant easements (if applicable); and sight distances from any driveways or other intersections.
- C. Signage design specifications shall be drawn to scale and include the following information:
  - i. Dimensional measurements.
  - ii. Lettering, font-style, and other graphical features the sign is proposed to display.
  - iii. The material used for construction of the sign and supporting structure and frame.
  - iv. The method used to fasten the sign to its supporting structure.
  - v. A plan that demonstrates a clear line of sight will be maintained for all driveway and roadway intersections.
  - vi. An inventory consisting of color photographs and details on all Signs currently existing upon the Lot.
  - vii. A lighting plan (if applicable) indicating the method and intensity of illumination for the sign including its frames and supporting structure.
- D. Permit Review: After receipt of all of the foregoing information, together with the permit fee specified in **Section 440(4)(F)** below, the A/O shall review the application for compliance with this Section and if it is complete shall render a decision to approve or deny the application(s), including with a statement of reasons for a sign permit denial (if applicable) within 30 days of filing of the completed application in accordance with 24 V.S.A. § 4448(d).

- E. Permit Expiration: An approved zoning permit for any sign shall expire sixty (60) days from the date of its issuance if the authorized activity has not commenced within that period of time. The A/O may extend the approval period for the permit for an additional sixty (60) days for a reasonable cause, upon receipt of a written request submitted prior to the expiration of the original sixty (60) day period of approval.
- F. 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 A/O a permit fee or appeal fee in accordance with the most recently amended schedule of fees adopted by the Selectboard. Any fees paid with an application shall be refunded if the A/O determines that the Sign being reviewed in the application process will display only noncommercial or other exempted content as provided in Sections 440(5)(F) and 440(7).
5. General Standards:
- A. No signs or sign supporting structures shall be installed within or above the public Right-of-Way, except for Official Business Directional Signs (OBDS), official Road-name or Highway Signs; or any other Signs licensed, erected, maintained, or established pursuant to Chapter 21, Title 10, Vermont Statutes Annotated.
- B. No more than three (3) permanent Outdoor Advertising Signs for each Independently Operated Business shall be permitted on one lot, where no more than two (2) may be Freestanding, unless the lot is a Double-Frontage Lot with approved highway access for each frontage. Under these circumstances, the Lot may be permitted to have a fourth free standing Sign advertising a business (in accordance with Section 440(6)(A)(iii) below), provided that it shall not be visible from the location of any other freestanding sign on the lot. Additionally, the following Signs shall be allowed upon the lot:
- i. A total of one (1) Accessory Sign per Independently Operated Business of similar design, color, and materials may be attached to a Free-standing, flat, or overhanging Sign; but not attached to any Canopy or Awning Sign. Accessory Signs shall not count as part of the allowable sign area (as provided under Section 440(6)(A)) for an Independently Operated Business but shall count against the allowable Sign Area for a Multi-business Development.
  - ii. A total of one (1) Portable Sign shall be permitted on a lot containing at least one (1) Independently Operated Business. Such signage 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. The Sign shall be placed so that it does not interfere with vehicular traffic, line of sight, or pedestrian movement on walkways.

C. No more than one (1) Freestanding Sign shall be permitted for each real estate subdivision, condominium project, or private club on the lot where such use is located.

D. No more than two (2) Freestanding Signs affixed to one (1) supporting structure, or one (1) Flat Sign shall be permitted on one lot for any home occupation(s).

E. No more than two (2) Freestanding signs shall be permitted per Multi-business Development. All Freestanding 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.

F. Any Sign authorized under this Section that requires a zoning permit may display noncommercial content in lieu of any otherwise permitted content.

6. Dimensional Standards: All Signs shall comply with the following dimensional requirements:

A. Sign Area: Any Commercial Free-standing, Flat, or Overhanging Signs installed along the frontage of US Route 4 or Vermont Route 100 shall not exceed 64 square feet per side for any Independently Operated Business, nor exceed 96 square feet per side for any Multi-Business Development. Otherwise, all signs will comply with the following area dimensional requirements:

i. The total area used for any Accessory Sign per Independently Operated Business (in accordance with **Section 440(5)(B)(i)**), or any Signs that have been permitted to be attached to trees or other natural features (in accordance with **Section 440(8)(F)**) shall not to exceed four (4) square feet.

ii. The total area of any Sign for a real estate subdivision, condominium project, or private club shall not exceed nine (9) square feet.

iii. The total area used for a fourth Free-standing Sign that is permitted on an additional front yard of a Double-Frontage Lot (pursuant to **Section 440(5)(B)**) shall not exceed fifteen (15) square feet on one side.

iv. The total area used for any Awning Sign or Canopy Sign located on the front semi-circle or side of an awning or canopy shall not exceed thirty-two (32) square feet.

v. The total area used to advertise or call attention to any one (1) Independently Operated Business on a Multi-business Free-standing, Flat, or Overhanging Sign shall not exceed thirty-two (32) square feet.

vi. The total area of a Multi-business Sign which advertises or calls attention to two (2) Independently Operated Businesses shall not exceed sixty-four (64) square feet per side.

vii. The total area of a Multi-business Sign which advertises or calls attention to three (3) or more Independently Operated Businesses shall not exceed ninety-six (96) square feet per side.

B. Sign Height:

i. The highest part of any Free-standing Commercial Sign and its supporting structure shall not extend higher than twenty (20) feet above, either 1. the average elevation of the finished lot grade between the front line of the building and the Lot Frontage; or 2. the elevation of the highway closest to the sign.

ii. The highest part of any Free-standing Sign for a real estate subdivision, condominium project, private club, or Home-Occupation shall not extend more than twelve (12) feet above, either 1. the average elevation of the finished lot grade between the front line of the building and the Lot Frontage; or 2. the elevation of the highway closest to the Sign.

iii. A Flat Overhanging Sign shall not extend above the outer wall to which it is attached.

C. Sign Projection:

ii. Any Flat Sign affixed to a building may not project more than six (6) inches from the outer wall of the building to which it is attached. This provision shall not be construed to allow a Canopy or Awning Sign to protrude further outward from the face of the canopy or awning surface.

iii. Any Overhanging Sign may not extend more than eight (8) feet away from the face of the building to which it is attached.

D. Sign Separation Along Road Frontage:

The installation of a proposed second Free-standing Commercial Sign upon a Lot shall be separated by a distance of at least one hundred (100) feet from any preexisting Free-standing signs installed along the road frontage. The DRB may reduce the distance between a preexisting Free-standing sign and a proposed second Free-standing sign if it determines that the proposed installation maintains the "**Purpose and Intent**" of the Land Development Regulations outlined in **Section 440(1)**.

E. Signs are exempt from Setback requirements, consistent with the definition of "Setback" set forth in Section 120.

7. 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. Exempt Signs are allowed in addition to any other permitted Signs and shall not count against the allowable Sign Area or the allowable number of Signs permitted under the Land Development Regulations. Signs exempt from zoning permit requirements include:

- A. Window display areas limited to the display only of actual merchandise sold on the premises.
- B. One (1) Sign per awning or canopy which does not exceed (2) square feet.
- C. Signs which do not exceed four (4) square feet in area which display the following information:
  - i. Property numbers, post box numbers, names of occupants of the premises; or designate private streets, roads, or trails; and shall not exceed two (2) Signs per lot.
  - ii. Directions to guide traffic and parking on private property.
  - iii. Warning of danger or to restrict trespassing, hunting, or fishing.
  - iv. Non-commercial content for dwelling units, which shall not exceed two (2) Signs per Dwelling Unit, of which only one (1) Sign may be Free-standing.
- D. Signs which do not exceed six (6) square feet in area which advertise the sale or lease of the premises and do not exceed two (2) Signs per dwelling unit.
- E. Signs which do not exceed eight (8) square feet in area which display the following information for the following purpose:
  - i. Advertising private auctions, garage sales and/or similar activities – for a period not to exceed than 14 days consecutively twice per calendar year, which shall not exceed two (2) Signs per lot.
- F. Signs which do not exceed twelve (12) square feet in area which display the following information for the following purpose, and shall not exceed two (2) Signs per lot):
  - i. Construction projects that occur for a period of time not exceeding a total of 180 days, or until the issuance of a zoning certificate of occupancy; whichever occurs first.
  - ii. Advertisements of special events or cultural activities by non-profit organizations occurring on or off premises for a period, whether consecutive or not, not to exceed 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 A/O prior to installation.
- G. Signs not to exceed 180 square inches (1.25 square feet) indicating relevant complementary information to a commercial operation, including:
  - i. For “Vacancy”, “No Vacancy”, “Open”, or “Closed” Signs, no more than one (1) such Sign per business may be illuminated with neon or LED type Signs

provided it is displayed on the inside of the building window or door and does not include any commercial message.

- ii. Accessory service trademarks (e.g. AAA, American Express, etc.) that are attached to a permitted Commercial Sign.

H. On or off premises notices, information, signals, or signs installed by governmental bodies, including Event Signs or Banners approved by the Selectboard to the **Town of Killington Banner Ordinance**.

8. **Prohibited Signs:** The following Signs are prohibited:

- A. Signs and their supporting structures erected within or overhanging any Town highway or State highway right-of-way.
- B. Signs and structures supporting signs that obstruct a clear line of site for traffic, official traffic signs, traffic signals, or pavement markings; cause confusion or driver-distraction; impede the flow of traffic; or impair public safety.
- 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 affixed to trees or other natural features, unless they designate property numbers, post box numbers, names of occupants of the premises, private street names, roads, or trails; or warn of danger, restrict trespassing, hunting, or fishing. Such signage may only be issued a permit upon review of the A/O if they otherwise comply with the Land Development Regulations.
- G. Free-standing inflatable Signs, trailer Signs, handheld or walking Signs.
- H. Signs, including their frames and supporting structures that utilize dayglo or iridescent type paints and/or materials.
- I. Illuminated Signs, including their frames and supporting structures that utilize moving parts, blinking and/or moving lights, neon (or neon like) lights, or LED lights. Interior illuminated Signs are permitted under **Sections 440(7)(G)(i)** and **440(10)**.
- J. Signs attached to a utility pole.
- K. Marquee Signs, except for those listing changing entertainment or which qualify as an Accessory Sign in accordance with **Section 440(5)(B)(i)**.

- L. Accessory Signs attached to a Canopy Sign, Awning Sign, or any other Sign that is not in compliance with these Land Development Regulations.
9. Design Specifications and Materials: All Signs (whether or not requiring a Sign Permit) must adhere to the following criteria:
- Signs and lettering must utilize wood and/or wood type products, except for exempted or nonconforming Signs specified in **Section 440(7)** and **Section 440(14)**. Other materials, (except plastic or plastic-type composites) are authorized upon review and approval by the DRB.
  - A. All awnings, canopies, and commercial banners with Signs shall be constructed of cloth or simulated cloth materials except for their braces and supports which may be wood, metal, or structurally sound material.
  - B. Signs must be securely affixed to a post, framework, or building, unless they designate property numbers, post box numbers, names of occupants of the premises, private street names, roads, or trails; or warn of danger; or restrict trespassing, hunting, or fishing.
10. Sign Illumination: All signs (whether or not requiring a sign permit) must adhere to the following criteria:
- A. Signs may be illuminated by internal illumination or by continuous external lights which in each case must be configured, placed and shielded so that they do not produce glare, distraction, or confusion to vehicular traffic and neighbors. Sign Lighting must comply with the requirements of Section 427 of this bylaw.
  - B. An Awning or Canopy Sign may be illuminated only by continuous external lights, or by internal lights that are directed toward the ground and shall not be backlit.
  - C. Reflective nighttime materials may be used in lieu of external lighting provided they do not produce glare, create driver distraction, or confusion to vehicular traffic or neighbors.
  - D. Frames and supporting structure will not contain day-glow or iridescent type parts or materials.
  - E. Signs that are neon, LED, or otherwise illuminated internally may be displayed on the inside of commercially operated buildings but shall be placed away from direct view from the outside of the building or be kept at a minimum of ten (10) feet from view of the window or door to be permitted.
  - F. Illumination of “Vacancy”, “No Vacancy”, “Open”, or “Closed” Signs are detailed in **Section 440(7)(G)(i)**.

11. Special District Requirements:
  - A. Signs located in the Public Open Space District/Killington Section or in Planned Unit Developments of over 25 acres shall submit a comprehensive signage plan approved by the DRB.
  - B. All signage in a PUD may be modified by the DRB under Site Plan Review to allow for less restrictive requirements if a comprehensive signage plan is presented by the applicant(s) and approved by the DRB.
12. Maintenance of Signs: All Signs and their related support structures shall be maintained in good repair.
13. Signs of Discontinued Businesses: Any Sign for a business which has been discontinued shall be removed within six (6) months from such discontinuance.
14. Nonconforming Signs: – Nonconforming Signs that were in existence before the effective date of these bylaws may continue to exist indefinitely 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. Any nonconforming Sign shall not be moved to a different location. The following shall apply to any nonconforming Sign which has been taken down for any purpose, damaged, or destroyed:
  - A. Any 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 location(s).
  - B. If any such Sign is not replaced at the same location within the four (4) month period, it shall not thereafter be re-established or replaced without the approval of the DRB.
15. 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.
16. 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.
17. Construction - The terms and provisions of this Section are to be liberally constructed to 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

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 shall be by a fence or a buffer of natural plants or coniferous trees or shrubs at least 25 feet wide.

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.

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.

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 DRB 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.

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 DRB may, as part of its Site Plan Review under Section 510 of these Land Development Regulations, 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 Land Development Regulations, 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.

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 DRB, 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 Land Development Regulations and having frontage abutting the edge of the right-of-way of Route 4.

- A. If the parcel has a continuous length of Route 4 frontage having no Route 4 access roadways on the effective date of these Land Development Regulations, the number of Route 4 access roadways a person may construct on a parcel within such continuous length of frontage is limited to:
- B. One Route 4 access roadway for each continuous length of Route 4 frontage of 1,000 feet or less.
- C. 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.
- D. 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.

The number of access roadways, if any, existing on the effective date of the Land Development Regulations shall not be increased above the number permitted in Section 456(1)(A) (B) and (C).

"Access roadway" as used in this Section means any non-graveled 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.

"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 Land Development Regulations. Subdivision of a parcel shall not create a right to construct any access roadway in addition to those permitted in this Section.

"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 town highway right-of-way line nearest intersecting side Lot line or town 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

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:

Applicant public notice requirements:

- 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.
- C. 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.
- D. 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.
- E. The applicant shall be responsible for the cost of A and B above.

SECTION 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, trails, walkways and other pedestrian amenities, circulation, driveways and roadways, 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 DRB may modify these Land Development Regulations 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 DRB shall have the authority to review and approve, approve with conditions or deny an application for a PUD pursuant to the standards in these Land Development Regulations.
- 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 Land Development Regulations and those of 24 V.S.A. § 4464(a).
- f. An applicant(s) may apply for a comprehensive review in which the DRB 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 Land Development Regulations is permitted subject to the conditions and standards in this Section and other applicable provisions of these Land Development Regulations.
- h. Conditional use review, where applicable, shall be conducted concurrently with PUD Approval review.
- i. They shall hold at least one public hearing, upon public notice, prior to issuing a decision on the application for PUD Approval.
- j. The DRB authorizes the PUD to be completed in reasonable phases, in accordance with the Town Plan. The DRB may require that the applicant(s) for a multi-phase PUD Approval provide periodic updates of the projected phasing schedule.
- k. The DRB shall issue a decision on a PUD application within 45 days after the adjournment of the PUD Approval review hearing.
- i. An application for an amendment to a previously-issued PUD approval shall be subject to the Town Land Development Regulations in effect at the time of the amendment application.

1. 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 Land Development Regulations, 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 DRB.

A PUD application submitted to the DRB shall contain the following information:

- a. Name, address and signature of the applicant(s).
- b. Name, address and signature(s) of the landowner(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 Land Development Regulations 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.

The DRB may require additional information from the applicant(s) so the DRB 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.

The approval of a proposed PUD shall include findings that the PUD is in conformance with the Town Plan and other applicable Town Bylaws.

All uses allowed as permitted or conditional uses shall be reviewed and approved by the DRB under PUD review and a separate conditional use review by the DRB shall not be required for PUD applications reviewed by the DRB under these Land Development Regulations. During PUD review, the DRB shall use the standards of Section 300 to review conditional uses.

The DRB may allow for Buildings to cross 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.

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 Land Development Regulations, 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 DRB may reduce the 5-acre minimum Lot Area requirement to 3 acres for pre-existing Lots or parcels.

The DRB 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.

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.

The DRB 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.

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.

The DRB will consider the adequacy of the proposed vehicular and pedestrian circulation including parking with particular attention to safety. The DRB will review the Master Plan for safe and adequate pedestrian movement between phases of development within the PUD (if any) and surrounding existing development.

The DRB will review the proposed 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-R4 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.

The applicant(s) shall provide the plan for water, wastewater and other utilities for the PUD.

All proposed development within a PUD shall be subject to the Land Development Regulations as outlined in:

- A. The height requirements of Section 426;
- B. The parking requirements of Section 432; and
- C. The signage requirements of Section 440.

Unique natural features, as identified in the Town Plan, shall be preserved.

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 DRB 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 DRB as a condition(s) of its approval, may establish such 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 DRB of the Town of Killington specifically approves otherwise.”

The DRB 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 Land Development Regulations, in order to protect the public health, safety and welfare.

PUD approvals under this Section shall be issued for an indefinite period of time.

A number of PUDs were approved under prior Land Development Regulations 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 Land Development Regulations, 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 Land Development Regulations, 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 DRB 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 grandfathered 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 DRB 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 DRB 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 DRB 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 DRB 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 Land Development Regulations.
  - B. Applications for 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 hearing shall be warned pursuant to the requirements of Section 500 of these Land Development Regulations. Site Plan Approval and PUD Approval may be applied for, warned and hearings held concurrently and inclusively.
  - E. The DRB shall hold at least one public hearing pursuant to Section 900 of the Land Development Regulations prior to issuing a decision.
  - F. The DRB shall issue a decision within 45 days after the adjournment of the Site Plan Approval review hearing.
  - G. The DRB 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 DRB 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 Land Development Regulations. 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 DRB containing the following information:
- A. Name, address and signature of the applicant(s).
  - B. Name, address and signature(s) of the landowner(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; and
    - ii. true north arrow.
  - E. Survey of the property showing existing features, including contours if required by the DRB. 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)-(F) 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 Land Development Regulations.
4. If there is a mix of commercial and residential uses, the proposed improvements shall be so arranged as to ensure visual and acoustical privacy to residents in the development. Adequacy of landscaping and screening in this regard will be reviewed to achieve maximum compatibility with and protection to adjacent property. The landscaping buffer standards of Section 450 of these Land Development Regulations 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 DRB may require evidence that the project will not have an adverse effect on existing water, sewer and utility service for other users in the Town. The DRB 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 DRB will consider the adequacy of the proposed vehicular and pedestrian circulation including parking with particular attention to safety. The DRB 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 DRB 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 C-R4 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 DRB 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 DRB may require the applicant to provide services and/or amenities to compensate or ease the burden on municipal services.
10. The DRB may impose conditions with respect to other matters specified in the Land Development Regulations.
11. The DRB 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 DRB 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.

The DRB shall consider the need for access to the project by public transportation which may include an area designed for a bus pull-off.

13. 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 their 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 AO shall not issue a zoning permit until the DRB, after a properly warned 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 DRB determines that such Land Development is not substantially the same as that approved in the Site Plan Approval, the AO shall not issue a zoning permit for such Land Development until the DRB 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 DRB, with the approval of the Selectboard. The AO shall literally enforce the provisions of these Land Development Regulations and shall not have the power to permit any Land Development which is not in conformance with these Land Development Regulations. The AO shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these Land Development Regulations.

An AO may be removed for cause at any time by the Selectboard after consultation with the DRB.

SECTION 605 - ADMINISTRATIVE REVIEW

1. The AO may review and approve certain new developments and amendments to previously approved development that would otherwise require DRB 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 Land Development Regulations; and
  - B. The administrative approval will not have a substantial impact on any findings of fact of the most recent approval.

Prior to granting administrative approval, the AO will advise the Chair of the DRB of such proposed approval. The Chair at their discretion may require a public hearing in place of administrative approval.

Any decision made by the AO may be appealed as provided in Section 760 of these Land Development Regulations.

SECTION 610 - ZONING PERMITS

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

1. 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 Land

Development Regulations. This plan is to be drawn to an appropriate scale 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 proposed 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 is 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.

2. Fee:

Pursuant to 24 V.S.A. § 4440, the fees for a zoning permit and the fees for filing a zoning permit application shall be established by the Selectboard; the fees for filing a zoning permit application may include fees to pay or to reimburse the Town for the cost of hiring or engaging engineers, professional consultants, or attorneys to assist the Town with its review of an application. 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.

3. Issuance of Permit:

A zoning permit shall be issued by the AO only if the application, fee, and plot plan have been properly filed and other requirements of these Land Development Regulations have been complied with.

In connection with the removal of trees from an unimproved property (as such term is defined in the definition of Land Development) within twenty (20) feet of any property boundary, a zoning permit will only be issued if such removal is approved as a component of the issuance of: a zoning permit or conditional use approval for the construction of improvements; a driveway permit; Site Plan Approval; or Planned Unit Development Approval. Additionally, the removal of any trees located within twenty (20) feet of a property boundary shall be permitted solely within the limits of the area specified in the issued permit. As stated in the definition of Land Development, tree removal only constitutes Land Development in the Residential 1 District, Residential 3 District, Hamlet District, Commercial District, Business District, Valley District, Sherburne Pass District, or Commercial/ Business District. As also stated in the definition of Land Development, the removal of dead or diseased trees and the removal of trees in

accordance with a forest management plan approved through the Current Use / Use Value Appraisal program or by the Vermont Department of Forest, Parks and Recreation does not constitute Land Development.

4. Posting of Permit:

Within three (3) days following the issuance of a zoning permit, the AO 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.

5. Time of Issuance:

If the AO 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 AO shall notify the applicant in writing stating their reasons, therefore.

6. Effective Date:

No permit shall take effect until the later of (1) the time for taking an appeal to the DRB has passed without an appeal being taken, or (2) the adjudication of an appeal to the DRB 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.

7. 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 AO. 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.

SECTION 615 – ZONING PERMIT FOR BOUNDARY ADJUSTMENTS OR LOT LINE ADJUSTMENTS

2. Boundary Adjustments or Lot Line Adjustments involving adjacent parcels legally in existence as of the date of the proposed adjustment that (a) do not create any new Lots, (b) do not create or increase the degree of nonconformance of an existing Lot, or of any existing improvements situated on an existing Lot (without a variance granted by the DRB in accordance with Section 770), (c) do not alter any conditions of a previous subdivision approval, and (d) do not result in the creation of a minor or major subdivision, require a zoning permit issued by the AO, and no person shall commence the adjustment of a boundary or Lot line without a zoning permit.
3. In addition to conforming with the requirements set forth above, Boundary Adjustments or Lot Line Adjustments each must (a) result in the creation of a Lot that meets or exceeds the minimum Lot size for the Zoning District in which the land is located, (b) not result in the creation of a Lot that does not have frontage on a public road or unobstructed access to a public road by permanent easement or right- of-way of record of at least twenty (20) feet in width, (c) not result in the creation of a Lot that cannot reasonably be improved in compliance with the dimensional requirements applicable to the Lot, , (d) not result in the creation of a Lot that requires or is likely to require, for access to the Lot or to any structures that may be constructed on the Lot, the construction of any proposed roads or driveways with slopes greater than 15% at any point. To the extent that multiple Lots are accessed by a common private road, they must be benefited by a written road maintenance agreement, recorded in the Town land records, that establishes each Lot owner’s obligation to share in the cost of road maintenance, repair and replacement. So long as a proposed Boundary Adjustment or Lot Line Adjustment conforms to the requirements set forth above, an application therefor shall be issued an administrative permit by the Administrative Officer, and such permit shall be recorded in the Town land records along with the deeds of conveyance, provided that the A/O may refer applications to the DRB for site plan review if he or she concludes that he or she is unable to clearly determine whether the proposed Boundary Adjustment or Lot Line Adjustment conforms to the requirements set forth above.

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 Selectboard.
- 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 two paper copy of the survey plat accompanied by the appropriate recording fee. Survey plats shall be full-sized (18”x24”), and the applicant shall also provide the A/O with two 11”x17” paper copies and with a pdf of the final survey plat.

- D. Upon issuance of a permit, the A/O 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.
- E. Subsections (3), (4), (5), (6), and (7) of Section 610 of these Land Development Regulations shall apply to applications and permits subject to Section 615.
- F. Any decision made by the A/O may be appealed as provided in Section 760 of these Land Development Regulations.

SECTION 630 - ENFORCEMENT

The A/O shall enforce the provisions of this Regulation as provided in 24 V.S.A. §4451 and §4452.

SECTION 640 - CERTIFICATE OF OCCUPANCY OR USE

1.Requirement:

Pursuant to 24 V.S.A. § 4449(a)(2), 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 A/O stating that the proposed use of land or Structure conforms to the provisions of these Land Development Regulations. 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 A/O 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 Land Development Regulations.

A. A Certificate of Occupancy for a structure that includes a Dwelling Unit shall limit the occupancy of the Dwelling Unit to its Dwelling Unit Capacity.

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 of such refusal to the applicant at the address indicated on the application.

4. Prohibited:

It shall be unlawful to use, occupy, or permit the use or occupancy of any land or structure or part thereof in violation of the terms of a Certificate of Occupancy issued by the A/O for the property.

## ARTICLE VII DEVELOPMENT REVIEW BOARD (DRB)

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

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

### SECTION 710 - GENERAL POWERS

The DRB 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 DRB 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 Land Development Regulations or any other bylaw.

### SECTION 712 - GENERAL DUTIES

The DRB shall be charged with the proper interpretation of the Land Development Regulations and their consequent application within the municipality and with the administration of the procedures allocated to it by its Land Development Regulations including the following:

1. To hear and rule on appeals concerning any order, requirement, decision, or determinations made by the A/O in the administration and enforcement of these Land Development Regulations.
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 or a Planned Unit Development or Site Plan Approval Review in accordance with Article V, or for subdivision approval in accordance with Article XI.

### SECTION 720 - OFFICERS OF THE DRB

In accordance with the Act including, without limitation, 24 V.S.A. § 4461, the DRB shall elect its own officers and adopt rules of procedure subject to the provisions of these Land Development Regulations and the Act, and the officers of the DRB 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 DRB shall be held at the call of the Chairman and at such times as the DRB may determine. All such meetings shall be open to the public.

### SECTION 740 - RULES OF PROCEDURE AND ETHICS

The DRB shall adopt, from time to time, such rules and regulations as it determines are necessary to affect the provisions of these Land Development Regulations in accordance with 24 V.S.A. § 4461.

## SECTION 750 - FEES

The fee for an application to the DRB shall be established by the Selectboard.

## SECTION 751 - PUBLIC NOTICE; CONDITIONAL USE REVIEWS, VARIANCES, MAJOR SUBDIVISION REVIEWS, AND ADMINISTRATIVE OFFICER APPEALS

A warned public hearing shall be required for conditional use, PUD and site plan reviews, variances, major subdivision reviews and A/O 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.

NOTE: Requirements for Public Notice of Hearings for Site Plan Review and Planned Unit Development are found in Section 500, and for subdivision review are found in Section 1140.

## SECTION 760 - APPEALS TO THE DRB

An interested person may appeal any decision or act taken by the AO by filing a notice of appeal with the Secretary of the DRB 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 AO, 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 AO.

## SECTION 762 - INTERESTED PERSONS

For the purposes of these Land Development Regulations, an interested person means any one of the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the 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 that is the subject of any decision or act taken under these Land Development Regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan of the Town.
4. Any ten (10) persons who may be any combination of voters, residents, or real property owners within the Town who, by signed petition to the DRB 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. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. For purposes of this Section 762(4), an appeal shall not include the character of the area affected if the project has a residential component that includes affordable housing.
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 DRB shall set a date and place for a public hearing of an appeal under these Land Development Regulations, which shall be within sixty (60) days of the filing of the notice of such appeal.

The DRB 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 Land Development Regulations 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 DRB shall render any decision, which shall include findings of fact, within forty-five (45) days after completing the hearing, in accordance with 24 V.S.A. § 4464 of the Act. If the DRB 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 DRB 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 DRB 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 DRB TO GRANT VARIANCES

On an appeal, under Section 760 of these Land Development Regulations, wherein a variance from the provisions of the Land Development Regulations constitutes the relief requested by the appellant, the DRB may grant such variances, and render a decision in favor of the appellant, if all the following facts are found by the DRB 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 Land Development Regulations 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 Land Development Regulations 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 Land Development Regulations and of the comprehensive plan.

In rendering a decision in favor of an appellant under this Section, the DRB 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 Land Development Regulations, and that permit shall only be issued if the proposed Land Development complies with all applicable provisions of these Land Development Regulations, except as varied by the DRB. The Land Development approved by the DRB in such variance proceeding shall not be commenced until such zoning permit is obtained.

ARTICLE VIII- AMENDMENTS AND REPEALS  
SECTION 800

Any provision of these Land Development Regulations, as well as the boundaries of the various Districts established herein, may be amended or repealed subject to the provisions of 24 V.S.A §4441 and §4442.

ARTICLE IX - PUBLIC NOTICE

SECTION 900

Any public notice required for public hearing under these Land Development Regulations 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 these Land Development Regulation 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 24 V.S.A §4442.

SECTION 1012 - REPEAL OF PRIOR ZONING ORDINANCE

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

## ARTICLE XI – SUBDIVISION REVIEW

The purpose of subdivision review is to provide for orderly growth and coordinated development in the Town of Killington, and to further the purposes of the Town of Killington Municipal Plan. Subdivision review pertains to the subdivision of land into Lots; the improvement of Lots may require an applicant to obtain one or more zoning permits for the construction of Structures and may require an applicant to apply for approval under other provisions of these Land Development Regulations, such as Conditional Use approval, Site Plan approval, or approval of a PUD. In accordance with this Article XI (referred to herein as “Article XI”) and the Act, whenever any subdivision of land is proposed, the landowner or authorized agent (applicant) shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in these regulations prior to:

- The creation of a Lot of land.
- The sale or conveyance of any subdivided portion of a property; in addition, a lease of land shall be considered a conveyance of property under this Article XI if transfer tax is due pursuant to 32 V.S.A. § 9601(3)(B) in connection with such lease.
- Applying for a zoning permit for the development of any Lot to be subdivided.
- Filing a subdivision plat in the land records of the Town.

Nothing in these standards shall absolve the applicant’s responsibility to obtain all required local, state and federal permits before commencing any development. Density, Lot size and layout shall conform to the underlying Zoning District standards. No nonconforming lots shall be created by a subdivision, and no subdivision shall result in any existing improvements becoming nonconforming without a variance granted by the DRB in accordance with Section 770.

## SECTION 1100 – EXEMPTIONS FROM SUBDIVISION REVIEW

The following are specifically exempted from subdivision review under this Article XI:

- Boundary Adjustments or Lot Line Adjustments that are subject to review under Section 615 of the Town Land Development Regulations.
- Parcels leased for agricultural purposes, as defined by the State of Vermont Agency of Agriculture – Required Agricultural Practices (RAP), or for forestry purposes, in either case where no permanent roads or structures are proposed.
- The conveyance of rights-of-way or easements that do not result in the subdivision of land.

## SECTION 1110 – MAJOR AND MINOR SUBDIVISION

For the purposes of these regulations, subdivisions of land shall be classified as “Major” or “Minor”.

**Major Subdivisions** shall include any subdivision of land **(a)** resulting in the creation of six (6) or more lots, **(b)** constituting an amendment to a previously approved major subdivision, other

than Boundary Adjustments or Lot Line Adjustments that are subject to review under Section 615, (c) resulting in the creation of two (2), three (3), four (4), or five (5) lots from a Lot that was part of a subdivision approved within the previous three (3) years, (d) resulting in the creation of two or more parcels in two towns, or (e) resulting in the creation of two (2), three (3), four (4), five (5) lots but which does not qualify as a Minor Subdivision. Applications for Major Subdivisions shall be reviewed by the DRB.

**Minor Subdivisions** shall include any subdivision of land (a) resulting in the creation of two (2), three (3), four (4), five (5) lots from a Lot that was not part of a subdivision within the previous three (3) years, or (b) which does not qualify as a Major Subdivision. Applications for Minor Subdivisions shall be reviewed by the AO for the purpose of determining whether the proposed subdivision will (i) not result in the creation of a Lot that does not meet or exceed the minimum Lot size and other dimensional requirements applicable to the Zoning District in which the land is located, (ii) not create or increase the degree of nonconformance of an existing Lot, or of any existing improvements situated on an existing Lot (without a variance granted by the DRB in accordance with Section 770), (iii) not alter any conditions of a previous subdivision approval, (iv) not result in the creation of a Lot that does not have frontage on a public road or unobstructed access to a public road by permanent easement or right-of-way of record of at least twenty (20) feet in width, (v) not result in the creation of a Lot that cannot reasonably be improved in compliance with the dimensional requirements applicable to the Lot, or (vi) not result in the creation of a Lot that that requires or is likely to require, for access to the Lot, the construction of roads or driveways with slopes of 15% or greater. To the extent that multiple Lots are accessed by a common private road, they must be benefited by a written road maintenance agreement, recorded in the Town land records, that establishes each Lot owner's obligation to share in the cost of road maintenance, repair and replacement. So long as a proposed Minor Subdivision conforms to the requirements set forth above, an application therefor shall be issued an administrative permit by the AO, and such permit shall be recorded in the Town land records, provided that the AO may refer applications to the DRB for Major Subdivision review if the AO is unable to clearly determine whether the proposed application conforms to the requirements set forth above.

## SECTION 1120 – GENERAL SUBDIVISION APPLICATION PROCEDURES

**Applicability** - All applicants for subdivision approval shall complete a Town of Killington Application Form and Checklist and pay the required fee(s).

**Subdivision Application Requirements** - The applicant shall submit to the AO an application, associated fee and materials in accordance with the submission requirements established in Section 1130 of this Article XI. Subdivision applications shall be subject to the provisions of the following sections of the Land Development Regulations: Section 750, 751, 760, 761, 762, 763, 765, 766, 767, 770, and 900.

**Administrative Officer Review** - The AO shall document the date the completed application is received in the Town Office. The AO will determine if an application is complete or incomplete,

and if incomplete will notify the applicant of what materials are necessary for a complete application.

**Administrative Officer Action** - Within thirty (30) days of his or her receipt of a complete subdivision application, the AO shall (a) in the case of an application for a Major Subdivision, refer it to the DRB, and (b) in the case of an application for a Minor Subdivision, either refer the application to the DRB, approve the application, or deny the application. The applicant has the right to appeal the action or non-action of the AO in accordance with the Act and in accordance with the Land Development Regulations.

**Certificate of Subdivision Compliance** - Prior to the issuance of any zoning permits to construct improvements on a subdivided Lot, a Certificate of Subdivision Compliance (“Certificate”) shall be obtained from the AO to ensure that required infrastructure improvements have been installed in accordance with the conditions of subdivision approval. The satisfactory completion of any infrastructure improvements shall be determined by the AO, who may condition the issuance of a Certificate on receipt of a certification from the civil engineer or land surveyor of record. A Certificate shall not be issued for any subdivision that the AO is unable to certify is in compliance with the conditions of subdivision approval. The AO shall not issue a zoning permit for the development or improvement of a subdivided Lot within the subdivision until the Certificate has been issued.

An application for a Certificate shall be submitted to the AO together with (1) a certification from the civil engineer of record stating that they have inspected the completed project and that required infrastructure improvements were constructed in compliance with the conditions and requirements of subdivision approval, and (2) as-built plans drawn to scale indicating any monuments, utilities, structures, roadways, easements, and other improvements as constructed. Within 15 days of receipt of the request for a Certificate that includes all required supporting material, the AO shall either issue the Certificate or issue a written determination that the request was incomplete identifying the missing information, and upon the AO’s receipt of the missing information the 15-day period shall reset. If the AO fails to respond to the request for a Certificate within such 15-day period, the Certificate shall be deemed issued. The issuance of a Certificate is not subject to appeal.

**Development Review Board** - The DRB shall be responsible for approval, modification, or disapproval of all Major Subdivision applications unless exempted as set forth in this Article XI.

**Waiver Authority** - In accordance with the Act, the DRB may waive one or more application requirements specified in Section 1130, Subdivision and Plat Submission Requirements, if the DRB determines that it is not requisite in the interest of public health, safety and general welfare and will not have the effect of nullifying the intent and purpose of applicable provision of this Article XI, the Killington Town Plan and /or other bylaws and ordinances in effect.

The applicant shall identify the specific requirements for which the waiver is requested and the basis for the requested waiver. The request for the waiver shall be submitted in writing by the applicant with the subdivision application, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the DRB to make a decision.

## SECTION 1130 – SUBDIVISION AND PLAT SUBMISSION REQUIREMENTS

The following information shall be submitted to the AO along with the Application Form and associated fee. All subdivision and final plat submission requirements are necessary for an application to be considered complete. In the discretion of the AO and/or the DRB, an applicant may be asked to only submit electronic copies of certain application materials. Major subdivisions that are subject to Site Plan and or PUD review under Section 510 of the Land Development Regulations shall be reviewed concurrently by the DRB pursuant 24 V.S.A. Sec. 4462.

The applicant shall provide one original full-size plat (18”x 24”) which shall address and include all subdivision and final plat submission requirements established in this Article XI, five copies of the proposed plat resized to 11”x17” together with a pdf of the plat, prepared by a Vermont licensed professional engineer or surveyor. All dimensions shall be represented in feet or decimals of a foot, drawn to a reasonable scale which will allow readability of the details and information required as determined by the DRB.

### **Required Application Information**

- a. Completed Town of Killington Application Form and Checklist.
- b. Application fee.
- c. Written description of proposed development plans, including number and size of lots and the anticipated schedule of development (if applicable).
- d. Waiver request in writing (if any).
- e. Copies of all existing municipal and state permits issued with respect to the Lot.
- f. Letters of approval or ability to serve letters from applicable municipal service providers.

### **Plat Requirements for All Subdivisions**

- a) Name of subdivision, name and address of the owner of record, applicant, civil engineer and any other consulting design professionals whose work product supports the application.
- b) Boundaries and area of the entire parcel, whether or not all land therein is to be subdivided, north point, scale, date and dates of any revisions.
- c) Approximate location of buildings (if any are proposed).
- d) Adjoining property lines, names of adjoining property owners, tax parcel numbers of adjoining properties.
- e) Monument locations.
- f) Existing and proposed Lot lines, dimensions and proposed Lot numbers.
- g) Existing and proposed contours in sufficient detail to evaluate the proposed subdivision.
- h) Zoning District designations and boundaries.
- i) Existing and proposed infrastructure serving the land to be subdivided, including roads, utilities, and stormwater/drainage infrastructure.
- j) Uses of adjoining parcels.
- k) Existing easements, buildings, water courses, and other notable physical features.

- l) Existing and proposed utilities: power, water, gas, wastewater, drainage, stormwater systems, and associated rights of way or easements.
- m) Deed description and boundary survey of tract boundary made and certified by a State of Vermont licensed land surveyor tied into established reference points, and any existing deed restrictions.
- n) Existing site conditions including watercourses, wetlands and associated buffers; flood hazard areas; areas of slopes in excess of 15%, forest type, and vegetative cover and other significant natural features.
- o) A vicinity map drawn to a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
- p) Stormwater Management Plan stamped by a State of Vermont licensed engineer.
- q) Erosion Control and Sedimentation Plan stamped by a State of Vermont licensed engineer.
- r) Certification block and associated plat recording requirements.
- s) License number and seal of the Vermont licensed surveyor or licensed Vermont engineer.

#### **Additional Plat Requirements for Major Subdivisions**

- a. Local names and present widths of existing and proposed streets, right of ways, highway intersections, easements, buildings, and walkways.
- b. Grades and street profiles of all proposed streets or other public ways.
- c. Existing and proposed contours at intervals of five (5) feet.
- d. Preliminary design of any bridges or culverts and other drainage structures or facilities.
- e. Any additional requirements applicable to Site Plan review under Section 510 of the Land Development Regulations.

#### **Supporting Information and Documentation for Major Subdivisions (unless waived by the DRB)**

- a) Road profiles; road, intersection and parking area geometry and construction.
- b) Existing and proposed traffic generation rates, and volumes.
- c) Off-site easements (e.g. for water, wastewater, access, stormwater/drainage).
- d) Proposed phasing schedule and subsequent development plans.
- e) Private roadway language and maintenance agreements, if applicable, to be inserted into all deeds.
- f) Proposed performance bond or surety based on cost of public improvements.
- g) Outdoor roadway lighting plan, if proposed.

#### **Additional items that may be required by the DRB for Major Subdivisions**

- a) Temporary field markers, located on site, to enable the DRB to determine the proposed location of parcel boundaries.

- b) Visual Impact Assessment that identifies potential impacts to significant visual resources as identified in the Town Plan.
- c) The DRB may require from the applicant(s) additional information so the DRB can determine compliance with the applicable requirements set forth in 24 V.S.A § 4418.

SECTION 1140 – SUBDIVISION APPLICATION AND APPROVAL PROCEDURE REQUIREMENTS

**Public Hearing** - Within 30 days of receipt of a complete application for a Major Subdivision and final plat approval, the DRB shall schedule a public hearing on the subdivision and final plat, warned in accordance with the Act.

A noticed Public Hearing is only required for Major Subdivisions.

**Site Visit** - The DRB may schedule a site visit. Any site visit attended by a quorum of the DRB shall be warned in accordance with the Act.

**Final Approval** - Within 45 days of the date of adjournment of the public hearing, the DRB shall approve, approve with conditions, or disapprove the subdivision and final plat, based on a determination of whether or not the subdivision and final plat conforms to applicable standards as set forth in Section 1150 of this Article XI. Approval, conditions of approval, or grounds for disapproval, shall be set forth in a written decision.

**Performance Bonding** - For any subdivision which requires the construction of public roads or other public improvements, the DRB or Administrative Officer, as the case may be, shall require that the applicant post a performance bond or comparable surety to cover the cost of construction and to ensure completion of specified improvements in accordance with the conditions of approval. Such bond or surety must be approved by the Town of Killington Selectboard prior to final plat approval. The term of the bond or surety may be fixed for a maximum of three (3) years, within which time all improvements must be completed. The term of such bond or surety, by mutual consent of the Selectboard, Development Review Board or Administrative Officer, as the case may be, and applicant, may be extended for an additional period up to three (3) years. The Selectboard may also require a Maintenance Bond for two (2) years after completion of specified improvements. The Selectboard shall establish an inspection fee to cover the costs of inspection, to be paid for by the applicant.

The Selectboard shall release the bond or surety once all specified improvements have been completed in accordance with the project plans, permit conditions and performance bond conditions. In no event will a performance bond be released unless and until any required Certificate of Subdivision Compliance is issued, and any required Maintenance Bonds are in place, or the applicant provides written notice to the Town of Killington that the applicant is not proceeding with the project and that all application actions are being ceased.

**Effect of Subdivision and Final Plat Approval** - The approval of a subdivision and final plat by the A/O or DRB, as the case may be, shall not be construed as acceptance for ownership and maintenance by the municipality of any street, easement, utility, park, recreation area, or other

open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution and acceptance by the Selectboard.

### **Plat Recording Requirements**

In accordance with the Act, the applicant shall file a mylar plat in the Killington land records and provide 2 paper copies and one electronic copy of the recorded plat to the Administrative Officer. The approved plat shall:

- Measure 18” X 24”.
- Be signed by an authorized representative of the Development Review Board (Major Subdivisions) or the AO (Minor Subdivisions).
- All Subdivisions shall carry the following endorsement on the original to be filed with the Town Clerk except that the words “Resolution of the Development Review Board” and “Chairperson” shall be substituted with the word “Administrative Officer” for Minor Subdivisions.

**Approved by Resolution of the Development Review Board for the Town of Killington,  
Vermont,  
on the \_day of , 20\_ ,**

**Subject to the requirements and conditions of said resolution.**

**Signed this \_\_day of , 20\_ ,**

**By \_\_\_, Chairperson.**

**Plat Recording** - The approval of the DRB or Administrative Officer, as the case may be, shall expire 180 days from subdivision approval unless, within that 180-day period, the plat has been filed or recorded in the office of the Town Clerk. After an approved plat or certification by the clerk is filed, no expiration of that approval or certification shall be applicable. The A/O may extend the date for filing the plat by an additional 90 days if final local or State permits or approvals are still pending.

The final plat shall meet all recording requirements for subdivision approvals as specified for municipal land use permits under 27 V.S.A. Chapter 117 Section 4463. A digital copy of any recorded survey or plat shall be filed with the Vermont Center for Geographic Information – Vermont Land Survey Library at [landsurvey.vermont.gov](http://landsurvey.vermont.gov).

**Revisions to an Approved Subdivision and Plat** - No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision shall be made unless the proposed revisions are first resubmitted as a new subdivision application and are approved by the DRB or Administrative Officer, as the case may be. In the event that subdivision or plat revisions are recorded without DRB or AO approval, as appropriate, the revisions shall be considered null and void, and subject to enforcement.

If any subdivision previously approved by the DRB or AO is modified, or if an applicant fails to materially commence construction of a project approved through this Article XI within five (5) years of the date on which subdivision approval was granted, then the entire subdivision shall be subject to a re-review in full accordance with this Article XI, and subject to any additional fee requirements, provided however, that upon application made to the AO prior to expiration of the five (5) year period, the five (5) year period may be extended by up to an additional three (3) years, for a total of eight (8) years.

If an applicant makes or proposes to make any material or significant change to any of its plans during the overall permit process, the DRB or AO, as the case may be, may, in its discretion, require the applicant to submit a new application and pay a new application fee.

## SECTION 1150 – SUBDIVISION GENERAL STANDARDS AND DESIGN REQUIREMENTS

### STANDARDS APPLICABLE TO ALL SUBDIVISIONS

**Stormwater Management / Drainage** – The AO (for Minor Subdivisions) or DRB (for Major Subdivisions or for Minor Subdivisions that have been referred to the DRB by the Administrative Officer) shall require the preparation and implementation of Stormwater Management and/or Erosion Prevention and Sedimentation Control Plans and associated analyses to ensure that site improvements, including excavation, road and driveway construction, and site clearing and grading shall not unduly impact surface waters or neighboring properties. Such plans, if required, shall be prepared by a licensed Vermont engineer, in accordance with the Vermont Stormwater Management Manual and the Vermont Handbook for Erosion Prevention and Sedimentation Control, as most recently amended, and include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities. Culverts or other drainage facilities large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the development, may be required. The applicant’s engineer shall provide information deemed necessary by the AO or DRB to make the determination of the adequacy of facilities. The AO or DRB, as the case may be, may request a determination from the applicant’s engineer of the effect of the subdivision on existing downstream drainage capacity and facilities outside of the area of the subdivision. Where the applicant’s engineer anticipates that increased runoff to the development may overload the capacity of the downstream system or facility, the AO or DRB, as the case may be, shall require the applicant’s engineer to modify the proposed subdivision design..

Temporary and permanent stormwater management and erosion control measures, designed in the manner required above, shall be incorporated into subdivision design and layout to control surface runoff, sedimentation and water pollution on-site and downstream from the proposed subdivision. Factors to be considered in determining the types of controls necessary shall include pre-development site and runoff conditions, vegetation and ground cover, slope and drainage patterns, soil types, the percentage of land covered in impervious surfaces, distances to streams and other surface waters, and impact on adjoining properties.

The AO or DRB may condition final subdivision approval and/or may condition the issuance of any zoning permits to construct improvements on subdivided Lots, on the issuance of a State of Vermont Stormwater Permit.

**Erosion and sediment control during construction** - Slopes and soils exposed during construction shall be managed to prevent erosion by using accepted erosion control measures. Plans meeting the guidelines of the latest edition of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites shall be submitted for all major subdivisions. The applicant shall follow the erosion prevention and sediment control practices for construction that occurs from October 15 to May 15 found in the most recent standards for winter construction issued by the Vermont Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division or any successor regulatory authority.

### **Road Standards**

- a. **Public Roads:** All proposed roads intended for consideration for acceptance as Town highways shall be built in accordance with the Town of Killington Highway Department standards. Acceptance of a private road by the Town is subject to the approval of the Killington Selectboard and construction of a road to these standards does not ensure acceptance.
- b. **Private Roads:** All proposed roads intended to remain as private roads shall be constructed in conformance with the Vermont Agency of Transportation Class 3 road standards. The DRB may modify these standards if the applicant can document to the satisfaction of the DRB that the road, as designed, is readily accessible to emergency response vehicles. If the road is not intended for acceptance by the Town, the mechanism with which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented to the satisfaction of the DRB to ensure that the owners of the lots served by the road are obligated to maintain the road and to pay for its maintenance, repair and replacement and that there is a legal mechanism in effect to enforce those obligations. The DRB may require documentation of maintenance requirements in the form of association agreements or deed restrictions. For Subdivision applications, if an applicant seeks a modification from the strict application of the Vermont Agency of Transportation Class 3 road standards, the AO shall refer the application to the DRB so that the DRB can exercise the discretion afforded by this provision.
- c. **Layout** - Streets shall be logically designed to fit the topography so as to produce useable lots, minimize the amount of cut and fill required, produce reasonable grades and produce safe intersections in appropriate relation to the proposed use of the land to be served by such roads, and the AO or DRB, as the case may be, shall consult with the Town public works department or road commission. The AO or DRB, as the case may be, with advice from the Town public works department or road commission, may impose other road design standards.
- d. **Access** - To better manage traffic flow and safety, avoid congestion, and frequent turning movements, the AO or DRB, as the case may be, with advice from the Town public works department or road commission, may limit the number of access points onto public

highways.

- e. **Road Names and Signs** - Road names shall be approved by the Killington Selectboard, in accordance with road naming ordinances and policies in effect. Approved road names shall be clearly depicted on the final plat. Road name signs shall be installed by the applicant.
- f. **Capacity of Existing Roads** — The AO or DRB, as the case may be, with advice from the Town Public Works department, road commission or similar municipal body with relevant training and experience, shall determine whether the existing road network can accommodate the traffic expected to be generated by a proposed subdivision.

**Water Supply and Wastewater Systems** – Unless a subdivision is exempt from the requirement to obtain a State of Vermont Potable Water and Wastewater Disposal Permit, for all proposed subdivisions, the applicant shall provide a copy of the State of Vermont Potable Water and Wastewater Disposal Permit issued for the project, or Permit Application if one has been applied for and not yet issued, to the AO. The State of Vermont Potable Water and Wastewater Disposal permit, if one is required by State law, shall be submitted to the AO prior to the issuance of a Certificate of Subdivision Compliance.

#### **ADDITIONAL STANDARDS APPLICABLE TO MAJOR SUBDIVISIONS**

The DRB shall also evaluate any application for Major Subdivision approval in accordance with the standards set forth below, provided that the DRB may waive the application of any particular standards from among those set forth below as stated above under the heading “Waiver Authority”. The DRB may require the applicant to submit data addressing impacts related to these standards and may require modifications to the proposed subdivision to avoid or mitigate adverse impacts. Should the DRB deem it necessary to employ an engineer or other consultant to review any application materials, the costs of review shall be paid by the applicant.

**Site Plan Review** – Any proposed subdivision that includes the construction of improvements (other a single or two family home) shall be subject to site plan review in accordance with Section 510 of the Town Land Development Regulations.

**Conformance with Killington Town Plan and Other Regulations** - Subdivisions of land shall be in conformance with all applicable requirements of this Article XI, the Killington Town Plan, capital budget and program and all other municipal bylaws and ordinances currently in effect.

**Density and Lot Layout** - Density, Lot size, and layout shall conform to the underlying zoning district standards and general standards pertaining to frontage, Lot size and setback requirements.

**Landscaping and Screening** – To the extent feasible, the applicant shall make an effort to preserve existing specimen trees, tree lines, contiguous blocks of forest habitat, wooded areas of particular natural or aesthetic value, and critical wildlife habitat, provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality

and/or other natural features, and provide screening of development to increase privacy, reduce noise and glare, or to establish a visual or physical buffer.

**Preservation of Existing Features** - The applicant shall use best efforts to preserve and protect existing site features, trees, rock walls, scenic points, brooks, streams, water bodies, wetlands, other natural resources, and historic resources. Existing features shall be represented on all site plans.

**Energy Conservation** - The applicant shall make an effort to implement an energy efficient site design and layout.

**Outdoor Lighting** - To maintain the Town's rural character, and to preserve the night sky, streetlights are not encouraged. However, where it is demonstrated that streetlights are necessary, only downcast, cutoff types of fixtures may be used.

**Protection of Natural and Cultural Resources** - All subdivision applications shall identify and provide for the protection of natural and cultural resources. The DRB may consult with state officials, and/or other qualified professionals to determine the likely impact of a subdivision on one or more of these resources and require appropriate measures to mitigate adverse impacts on such resources.

**Surface Waters, Wetlands and Flood Hazard Areas** - Subdivision boundaries, Lot lines and layout, and building sites shall be located and configured to avoid undue adverse impact to surface waters, wetlands, flood hazard areas and designated water supply source protection areas.

**Steep Slopes** - Subdivision boundaries, Lot lines and lot layout, and building sites shall be located and configured to minimize the construction of roads or driveways with slopes greater than 15% at any point without the prior written approval of the Fire Department including written confirmation from the Fire Department of its ability to use and access the road to serve Lots and Structures.

**Utilities and Utility Corridors** - Utility corridors should be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, fragmentation of natural resources, and undue adverse impacts to natural, cultural, or scenic resources. The Final Plat shall include all proposed utilities. The DRB shall encourage utility systems, including but not limited to electric, gas, cable television and telecommunications utilities, to be located underground where feasible. Where inclusion of utilities in the street right-of-way is impractical, unobstructed easements shall be provided with satisfactory access to the street and shown on the Final Plat.

**Community Services and Facilities** - The proposed subdivision shall not create an undue burden on existing and planned municipal facilities or create an unreasonable demand for public services. The DRB shall require the applicant to document that sufficient infrastructure capacity exists by providing letters addressing the matters below or an analysis of available capacity needed to serve the subdivision.

**Fire Protection** - Adequate fire suppression infrastructure (water storage tanks or ponds, water mains, fire hydrants, etc.) within the proposed subdivision shall meet the requirements of the State of Vermont Division of Fire Safety.

**Emergency Access** - The proposed subdivision shall not unduly burden the capacity of emergency responders such as police, ambulance, fire and other services. The applicant shall obtain documentation from the Town Manager that there is capacity to serve new development created by the proposed subdivision.