

# CASE STUDY ANALYSIS

Hillsides and Ridges Study

Prepared For the Communities of Sevier County, Tennessee

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## Executive Summary

Five communities were selected for case study review of ordinances regulating hillside development. They are:

- Napa County, California
- Park City, Utah
- Warwick, New York
- Albemarle County, Virginia
- Stowe, Vermont

The case studies are intended to provide clients and communities with an understanding of how other communities have chosen to regulate development patterns on hillsides and ridges. Each case study is based on an examination of their hillside ordinance and on discussions with local planners and stakeholders. The case studies strive to trace the development of the ordinance from its genesis to its adoption and its enforcement. Municipalities are typically reluctant to impose more rules, but at the right time their value is clear. Each case study is a one-page mini biography of the process with a supplementary one-page summary of the ordinance itself.

### *A bird's eye view*

In hindsight, the life cycle of a hillside ordinance is clear. The choice to regulate hillsides is made when municipalities recognize that the costs—economic, environmental, and aesthetic—of flatland development creeping up hillside outweigh the benefits of the regulatory status quo. Until recent decades, hillside open spaces were taken for granted. Regulations were unnecessary simply because the market did not support hillside development. Development on hillsides was costly to access, engineer and construct, and as such was the prerogative of the wealthy few. Adverse impacts were localized, if not abstract. By comparison, development on nearby flatland was accessible, easy, and cheap.

The forces that previously limited hillside development have now flipped polarity to encourage hillside development. Engineering and construction is feasible for middle class lifestyles. Flat terrain is built-out. Retiring baby boomers are escaping to rural, hillside communities in droves. Communities known for their natural beauty and vacation-like atmosphere are feeling sharply this demographic shift in the form of a booming second-home market. Despite the ability of engineering to mitigate impacts, there continue to be risks inherent to hillside development. Foremost among them are ecological impacts and eroding community character. These are matters best addressed in the realm of community consensus and the comprehensive plan, not engineering.

A mix of factors makes regulating hillside development a politically challenging effort. Because municipal rules typically lag behind market shifts, hillside regulations tend to place at odds newly vested stakeholders seeking to maximize the profit potential of newly available hillsides and

conservationists of all stripes seeking to preserve the natural and aesthetic qualities of hillsides. Municipalities, likewise, have a public interest duty to consider the larger recreational, environmental and community character impacts of poor development. In four of the five communities, their status as a major tourist destination was a factor that figured prominently in the decision to preserve natural hillside aesthetics and conditions. Three of the five communities used a stakeholder process to help grease the skids of rule making. Perhaps the mantra adhered to by the Albemarle case study is worth emphasizing here: parse the costs and benefits among the stakeholders in an equitable manner. The range of land-use tools, design principles, and engineering practices to regulate hillsides is already known and can be easily referenced. What remains to be learned are which mix of these tools will allow a specific community to achieve multiple objectives in a way that is equitable to a wide range of hillside interests.

**Case Study** | **Napa County, California**

The construction of a large, prominently located ‘eyesore’ house was the impetus for Napa County’s viewshed protection ordinance. In a region where the landscape and easy-going climate is a major draw for tourists and vacation home development, the community recognized that, in the absence of guidelines and standards, escalating development would erode that desirable character. The eyesore crystallized all that could go wrong under existing rules at the time<sup>(1)</sup>.

The development of the ordinance was lengthy, lasting almost two years and involving many members of the public, including developers<sup>(2)</sup>. Concern focused on down-valley communities’ view of hillside and ridge top development. The result was an ordinance that defines impacts in terms of their visibility from certain ‘designated public roads’ in the down-valley locations of the county. To date, there is a limited track record for this 2001 ordinance. Site plan review and construction for homes in this part of California is typically a multi-year process.

The ordinance supplements the underlying zoning, which for hillside areas is primarily the ‘Agricultural-Watershed’ district. Uses there are limited to agricultural practices such as vineyards and single-family homes plus a guest cottage. A mixture of desirability, prevailing uses, and narrow zoning interact to create a tight development market that encourages the construction of secondary, non-essential housing. Homes here consist of vacation and second-homes, averaging over 8,000 square feet in area. Homes subject to the ordinance may not exceed 4,000 square feet.

Prior to the viewshed protection ordinance, Napa County had no site plan review ordinance. Now, a site plan for proposed structures must be submitted to the planning department where it is evaluated against established criteria in the viewshed ordinance. These criteria regulate building height, mass, color, reflectivity, landscaping, and grading. The goal is to promote development that is designed and constructed in harmony with its landscape. If the plan does not meet the requirements in the ordinance, the proposal can be revised and resubmitted or sent to the zoning administrator for heightened review. Guidelines for development on hillsides are available.

Overall, the ordinance has been uncontroversial. Because the drafting process was deliberative and well publicized, there is an overall public awareness for the rules and their purpose. The planning department has observed that architects are advising their clients of the requirements and that site plans are complete and compliant. The requirements have had not had a chilling effect on the architecture of homes, which are eclectic as ever<sup>(3)</sup>. Recently, the ordinance was fine-tuned to clearly define some vague terms. For example, ‘substantially screened,’ which had caused some confusion, was updated to the quantifiable figure of 51% coverage<sup>(4)(5)</sup>.

**Lessons Gleaned** (Note: these are not recommendations; they are simply insights that may or may not apply to the communities of Sevier County)

- Rules typically lag behind market shifts
- Actively involve residents, developers, and designers in the development of rules
- Appropriate regulations do not necessarily mean less creativity or less flexibility
- Use sparingly vague words that make enforcement difficult for lack of clarity
- Strive for accuracy during the first draft; recognize that refinements can be made later

### **Highlights from Ordinance**

Definitions of Interest

- “Designated Public Road” shall mean scenic highways as identified in Figures 75 and 76 of the scenic highways element of the Napa County general plan, and such other county roads as may be designated by resolution of the board of supervisors.
- “Ridgeline” shall mean a visually prominent, relatively narrow strip or crest of land, which include the highest points of elevation within a watershed, and that separates one drainage basin from another. ... Major ridgelines are characterized by the lack of a topographical backdrop where the sky is visible beyond the ridge.

Administration

- The ‘Director’ makes a determination of applicability based on the location of the proposed activities and its visibility from ‘designated public roads’
- Activities: Construction permits, grading permits, and erosion control plans
- Exemptions: Small lot subdivisions, grading less than ¼ acres
- Exemptions based on existing vegetated cover shall require a deed recorded ‘use restriction’ requiring the vegetation to be maintained
- Applicant has 10 days to appeal Director’s decision

Selected Standards

- No part of a structure shall be within 25 feet vertical of a ridgeline
- Maximum building height shall not exceed 24 feet
- All trees over 6 inches DBH shall be replaced
- Grading shall be minimized and natural vegetation shall be preserved
- Exterior colors shall blend with surround vegetation and landforms
- Roof angles and building composition shall conform with the landscape
- Approved projects shall have a use restriction recorded in the deed “requiring ... (building) exteriors and existing and proposed covering vegetation... to be maintained by the owner or the owner’s successor so as to prevent the project from being viewed from any designated public road.”

Case Study

Warwick, New York

The Town of Warwick is one of the fastest growing communities in New York. In 1998, the Town began to update its comprehensive plan. In tandem, they conducted a build-out analysis in 1999. A moratorium on all new development was in place by 2000. The comprehensive plan was adopted and zoning rules were revised by 2002, when the Ridgeline Overlay District was adopted. The Ridgeline Overlay District was a response to the sense that the community's rural character was being eroded by untenable growth rates. They recognized that development would creep up hillsides as the Wawayanda valley became built-out<sup>(1)</sup>.

The ridgeline rules apply to the east and west sides of the valley. The Town elected to use an elevation threshold, above which the ridgeline rules would kick in. On the west side of the valley that elevation is 600 feet above sea level. On the east side, it is 700 feet<sup>(3)</sup>. In these areas all land subdivisions, special use permits, and site plan approvals are subject to the ridgeline rules.

The ridgeline rules are notable for its comprehensive approach to site development. The rules address more than just the placement and height of buildings and any vegetative screening around them. For example, the rules also address timber harvesting and clear cutting. New utility lines must be placed below ground. The Town also spells out lighting requirements, such as specific light levels and types of fixtures. Impervious surface covers on site cannot exceed 20 percent and all site plans must include soil erosion controls. Although there are height limits to homes and other structures, silos and architectural features, like cupolas and turrets, are exempt<sup>(2)</sup>.

The Town indicates that this local law is used on a daily basis. This is inevitable since the two districts cover large portions of the Town. Enforcement is a priority, too. The building inspector certifies that new construction follows approved plans. Constructed structures that differ in placement from approved plans by more than 20 feet are subject to a re-review<sup>(3)</sup>. Restrictions based in this local law are recorded on deeds for properties on which there is an approved site plan. A conservation easement is the preferred method for preserving views and vegetative buffers<sup>(4)</sup>.

**Lessons Gleaned** (Note: these are not recommendations; they are insights that may or may not apply to the communities of Sevier County)

- Rapid development tests community assumptions about the efficacy of their rules and the permanence of open space
- Regulate adverse impacts, but promote ‘place-making’ features: agricultural and architectural features are exempt from height restrictions
- Clear, quantitative standards for administrative triggers create a process that is objective and fair
- Deeded covenants should be considered part of the enforcement formula

### **Highlights from Ordinance**

Definitions of Interest

- RL-O1 areas constitutes elevations of the Town 600 feet or more above mean sea level west of the Wawayanda Valley and RL-O2 areas constitute elevations of the Town 700 feet or more above mean seal level as identified on the USGS topographic maps
- “Scenic features” include but are not limited to individual healthy trees within open fields that are at least 18 inches in diameter at breast height, historic structures, hedgerows, public or private unpaved country roads, and stone walls.

Administration

- Standards apply to land subdivision, special use permits, site plan approval, zoning variances, and accessory structures or dwelling additions in excess of 300 square feet.
- All deeds of new residential units shall contain reference to the ridgeline design requirements

Selected Standards

- In no case shall development occur along and/or project above ridgelines when viewed from designated public vantage points
- No building shall exceed a height of 25 feet,
- Impervious surface shall not exceed 20 percent of a site
- Colors shall blend with the natural surroundings
- Every attempt shall be made to limit vegetative cutting necessary for construction or the opening of views
- Floodlights shall not be used and all outdoor lighting shall use fully shielded light fixtures
- All electric, telephone, television, and other communication lines, shall be provided by underground wiring

**Case Study** | **Park City, Utah**

When residents look upward in this mountain community, they know that ski trails are the community’s bread and butter. But a line was crossed when the neighboring community of Deer Valley approved a master planned development mixing hillside suburbia and ski trails. Park City did not like what it saw. In 1991 a Sensitive Lands Overlay Zone was adopted by Park City in order to prevent this new development practice and to protect open spaces. Since its adoption, city planners acknowledge that the overlay zone has effectively guided development patterns and protected hillsides under “severely high” growth pressures.

The rules of the overlay zone kick in after a ‘sensitive area determination,’ which launches a comprehensive environmental assessment of the site. Each assessment is project specific and must analyze the site’s steep slopes, ridgelines, vegetative cover, visibility from designated public spaces, streams, and any wildlife habitat areas. The planning board may request additional information, if warranted by the development’s size or the site’s exceptional sensitivity. From time to time, the board has requested a visual impact assessment.

For each sensitive feature identified, the overlay zone regulates landscaping and the arrangement of building around them. In some cases, such as very steep slopes (over 40 percent), all development is prohibited, although 10 percent of the development density allowed may be transferred to other developable portions of the site. In less steep areas, three-quarters of the site must be preserved as natural open space. In these cases, up to 25 percent of the development density may be transferred. The developer may receive an additional 20 percent density bonus if certain public amenities or habitat restorations are included in the project. Exposed slopes must be revegetated and the character of the site shall not differ significantly from adjacent properties. A variety of measures may be used to offset impacts such as illumination standards, landscaping and screening. The overlay zone also requires 50-foot setbacks from stream corridors, although runoff control measures are not addressed within this section of the code. Building design standards are provided in other sections of the city code.

The overlay zone was updated in 2000 to clarify language. Differing interpretations by applicants and city planners had led to perennial confusion and mistrust. Clarified were setbacks from steep slopes and specific figures for determining significance. Given the codes’ focus on sensitive features and building placement (versus design), site plan review is a task of configuring units where impacts will be least. A hardship clause may provide some relief in the case that “all economic value” is lost. Park City planners indicated that this has been approved only once in recent memory.

**Lessons Gleaned** (Note: these are not recommendations; they are insights that may or may not apply to the communities of Sevier County)

1. Community character and good design do not have to be sidetracked by severe growth pressure.
2. Gateway and recreation tourism may be enhanced through quality land development patterns.
3. Inconsistent interpretations can lead to mistrust between applicants and the municipality; strive for clear language

### Highlights from Ordinance

#### Definitions of Interest

- “Steep slope maps” shall highlight areas of high geologic hazard... and all significant steep slopes. Steep slopes shall be categorized into either a) 15% <>30%, b) 30% <>40%, and c) > 40%.

#### Administration

- Sensitive Area Determination- Applicant performs a survey that identifies steep slopes, ridge line areas, wetlands, vegetated cover, stream corridors, and wild life habitat areas
- Apply Overlay Zone Standards to Site Plan- standards apply to the type of sensitive areas delineated
- Site Development Suitability Review- The delineation is reviewed by city staff and developable areas are determined
- Upon review, one or more of the following may be requested of the applicant- A visual assessment, a soil investigation report, a geotechnical report, fire protection report, and a hydrological report, among others.
- Hardship Relief- Standards may be modified to provide economic use of the site (City staff acknowledged that this provision has only been used once in recent memory).

#### Selected Standards

- No development shall be permitted within 50 feet of Very Steep Slopes, areas subject to land sliding, and other high-hazard geologic areas
- Applicant must avoid or minimize cuts and fills; benching and terraces are prohibited
- Roads may not cross slopes greater than 30%; short runs of 100 feet or less may be allowed.
- No structure may visually intrude on the Ridge Line area;
- Setbacks from wetlands and stream corridors shall be 50 feet

**Case Study | Albemarle County, Virginia**

Albemarle County rests easily in the foothills and Blue Ridge Mountains of central Virginia. It is a place where the landscape and history mix to tell a compelling American story that draws millions of tourists a year. Here is home to historic farmsteads and rolling countryside, the Blue Ridge Parkway and Jefferson's Monticello. Each destination stands on its own, but they are inseparable from the larger landscape. From a financial perspective, the story is clear. In 2005 tourism sales exceeded \$360 million and sustained over 4,500 local jobs earning nearly \$80 million in income. While dollars create livelihoods, Albemarle's 1998 comprehensive plan singled out the economically intangible 'sense of place,' created by the "blue backdrop of mountains" and that ranks the region as a top place to live in the United States.

In 1996 the County outlined a mountainside strategy that was included in its 1998 comprehensive plan. Then, on a prominent hillside a large housing unit went up. It was large, white, and very visible. Worried residents asked, "When would the next one be?" Like so many other communities they found themselves reacting to development consequences that are hard to undo. Important shortcomings in local land use protections became clear. In the summer of 2003 the County appointed a diverse 11-member consensus oriented committee to draft a Mountain Overlay District (MOD). As of March 2007, the committee's draft was being considered for adoption by the Albemarle County Supervisors.

For developing the rules, the committee began with what was 'on the books' and identified where adjustments here and there could provide the right protections. One committee member estimates that this made their proposal more palatable to the public than a 'from-scratch' ordinance. He also shared his observation that the committee recognized early that there would be no "one" answer. Not only would the community reject this approach, it would be ineffective. Rather, they examined hillside development and identified discreet issues ranging from property values, to water quality, public safety, and site sensitive development. The approach took time, but it was transparent, thorough, and reflected reality. The committee's mantra was to parse the regulations so that conservationists, farmers, property owners, developers, and the community would share both the benefits and costs.

MOD rules are a synthesis of many protections. Erosion and sediment control plans are required for disturbances exceeding 2,500 square feet, down from the countywide requirement of 10,000 square feet. Stream buffers were doubled in steep slope areas. From the development perspective, regulations limit the conversion of agricultural and forestry roads. Building heights are limited and construction or vegetative clearing may not break the ridgeline. Cluster subdivisions are the preferred subdivision pattern on hillsides. The rules recognize differences between the impact from a single unit 'homestead' and a subdivision. The group also recognized that the right protections could increase property value. Conservation easements are encouraged, but would not be required.

**Lessons Gleaned** (Note: these are not recommendations; they are insights that may or may not apply to the communities of Sevier County)

- Community character and ‘sense of place’ are intangible qualities with tangible economic benefits
- Focus first on refining existing rules, and use that as a basis for moving forward
- Property values and community character can be protected and enhanced with appropriate regulations

### Highlights from Ordinance

Definitions of Interest

- “Ridge Area” means areas within 100 vertical feet or 250 horizontal feet of a crest, whichever is more restrictive.
- “Crest” means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations

Administration

- No residential construction or related road or driveway construction would be permitted on critical slopes.
- The “Homestead” exemption: construction would be permitted on critical slopes if it was necessary to establish a single family residence for the land-owner and provided there is no alternative building site on the property.
- A variance would be available in cases of undue hardship under existing regulations
- Applicants may not be entitled to all the rights of division of land within the MOD and otherwise allowed by existing rules
- Cluster subdivisions shall be the preferred development patterns on hillsides
- Conservation easements are the preferred method for securing screening and vegetative buffers

Selected Standards

- Land disturbing activities exceeding 2,500 square feet shall require an effective erosion and sediment control plan explicitly designed to address erosion control and water infiltration for the long term
- Residential construction shall not occur within 200 feet of an intermittent or perennial stream or river shown on a U.S. Geological Survey 7.5 minute quadrangle topographic map.
- Construction may be permitted within stream buffers, if the buffer precludes all other reasonable building sites on the property
- Buildings within the ridge area shall not exceed 35 feet in height or exceed the height of an adjacent crest, whichever is more restrictive
- Building sites within the MOD shall not be approved unless the applicant can demonstrate that fire and rescue vehicles will be able to safely access the site

**Case Study** | **Stowe, Vermont**

Stowe is a quaint ski town located among Vermont’s Green Mountains. The highest point in Vermont, Mt. Mansfield, rises far above the village and possesses a majority of the ski trails in the area. The town was settled in the late 18<sup>th</sup> century and retains a large historic downtown district for a town of its size. These attributes make Stowe one of the most popular tourist destinations on the east coast. Winter tourism now rivals summer tourism. As a result of this shift coupled with the picturesque landscape people began constructing homes along Stowe’s ridgelines. The views are exquisite, however, as this community learned, “if the home has a sweeping view of the mountainside, chances are the mountainside also has a sweeping view of the home.”

During the early part of the 1990s the Stowe community realized that it would have to adopt legislation and standards regulating development along its ridgelines. This realization resulted from the construction of several large homes, which were marring the visual aesthetic of the mountains. The Ridgeline and Hillside Overlay District (RHOD) was adopted in 1998. The goal was not to halt development but allow it to occur in such a way where the natural beauty of the ridgelines is protected.

To accomplish this goal, the legislation created a review process and standards for development in RHOD districts. Following each standard are several guidelines to provide further assistance. The code also establishes public roads as the vantage points for assessing visual impacts from proposed development. Town planners argue that the most important aspect is the review process for development in the RHOD. The process allows for case-by-case evaluations of the developments, rather than implement a blanket set of regulations. The Development Review Board was established to evaluate proposed developments and to give recommendations of approval or denial based upon the proposed development’s adherence to the standards.

The Ridgeline and Hillside Overlay District is widely approved by the community. As one of the planners said, “if it went to a vote tomorrow, it would pass”. One reason for this is that more responsibility is placed on the developer to create a project that meets the standards, as opposed to the town trying to explain when and which regulations apply. The success of the rules depends on ongoing education for new residents and developers about the regulations. However, the Town is aware of the possibility that over time public understanding may fade and require renewed outreach.

**Lessons Gleaned** (Note: these are not recommendations; they are insights that may or may not apply to the communities of Sevier County)

- Regulation by conformance to standards, versus regulation by avoidance, places the benefits of development and responsibility for compliance in the applicant's lap.
- Clear standards and guidelines can promote harmony between development and the natural environment.
- Continuous education and heightened awareness of the regulations help ensure their consideration in future developments.

### **Highlights from Ordinance**

Definitions of Interest

- "Designation of Vantage Points" means certain designated public roads, state highways and municipal properties.
- "Standards" express the development and design intentions of this overlay district. All development within this district must comply with these standards. The Standards reflect the visual and environmental concerns of the community in terms of the Town's hillsides and ridgelines.
- "Guidelines" suggests a variety of means by which the applicant might comply with the standards. The options for compliances are not limited to the guidelines listed, but the applicant can use the list to aid in the design process.

Applicability

- Applicant schedules a Preliminary Review of the proposed development with the Planning Commission to receive a determination of whether the project is "minor" or "significant".
- Exemptions: Projects deemed "minor" are exempt from further review and are issued a Zoning Permit pending other applicable regulations.
- Exemptions are based on the projects overall scope and scale and a determination of the visual implications the development will have on the ridgeline's appearance.
- Planning Commission must make approval decision within 45 days of the final public hearing.

Selected Standards

- All development shall provide for the retention of native topsoil, stabilization of steep hillsides, prevention of erosion, and consequent sedimentation of streams.
- Development shall not detract from the sense of order or harmony of the landscape patterns. The massing of a project shall be designed to minimize visual impacts.
- Driveway grades shall not exceed 15% and shall have an average that does not exceed 12%.
- Any building, roof or structure shall not exceed the height of ridge or tree line.

CODES AND ORDINANCES  
EXAMINED IN CASE STUDY  
COMMUNITIES

**APPENDICES TO  
EXPLORATORY REPORT**

May, 2007

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## Appendix A: Napa County Viewshed Protection Ordinance

### 18.106.010 Purpose

The purpose and intent of these regulations is to protect the public health, safety, and community welfare and to otherwise protect the scenic quality of the County both for visitors to the County as well as for its residents by ensuring that future improvements are compatible with existing land forms, particularly County ridgelines and that views of the County's many unique geologic features and the existing landscape fabric of the County's hillside areas are protected and preserved. These regulations are consistent with the goals and policies of the Napa County General Plan, particularly as specified in the Land Use, Open Space and Conservation, Circulation and the Scenic Highways Elements. Furthermore, it is intended that these regulations accomplish the following:

- A. Provide hillside development standards to minimize the impact of man-made structures and grading on views of existing landforms, unique geologic features, existing landscape features and open space as seen from designated public roads within the County;
- B. Protect and preserve views of major and minor ridgelines from designated public roads;
- C. Create a development review process that maximizes administrative, staff level approval of projects which meet administrative standards, while also providing a vehicle for review by the Zoning Administrator or Planning Commission of those projects that do not meet the administrative standards;
- D. Minimize cut and fill, earthmoving, grading operations and other such man-made effects on the natural terrain to ensure that finished slopes are compatible with existing land character; and
- E. Promote architecture and designs that are compatible with hillside terrain and minimize visual impacts. (Ord. 1189 § 3 (part), 2001)

### 18.106.020 Definitions

Unless otherwise specified, the terms indicated below shall have the following meaning:

“Accessory structures” shall mean structures that are subordinate and supplementary to the predominate use of the parcel, be it agricultural, residential, or a combination thereof.

“Agricultural structure” shall mean a structure supportive and/or ancillary to an authorized on-site agricultural use as defined by Section 18.08.040 of the code.

“Benches” or “shelves” shall mean flat areas which could be used as a building site which are otherwise surrounded by slopes of fifteen percent or greater.

“Building Height” shall be as defined in the currently adopted edition of the California Building Code used by the county.

“Code” means the Napa County Code.

“Commission” shall mean the Napa County conservation, development and planning commission.

“Design manual” shall mean the manual entitled “Viewshed Protection Manual” on file with the Napa County conservation, development and planning department. The design manual shall contain graphic examples of major and minor ridgelines, projects which do and do not meet the criteria contained in this chapter, and landscape plan provisions.

“Department” shall mean the Napa County conservation, development and planning department.

“Designated public roads” shall mean scenic highways as identified in Figures 75 and 76 of the scenic highways element of the Napa County general plan, and such other county roads as may be designated by resolution of the board of supervisors.

“Director” shall mean the director of the conservation, development and planning department and/or his designee.

“Floor area” shall be defined to be the area encompassed by the outside surface of the structure foundation.

“Grading” shall be as defined in Section 18.108.030 of the code. Grading includes earthmoving activity as defined in Section 18.108.030 of the code.

“Major ridgeline” shall mean a ridgeline, which is prominently visible from a substantial land area within the county. Major ridgelines are characterized by the lack of a topographical backdrop where the sky is visible beyond the ridge.

“Minor ridgeline” shall mean a ridgeline which is not prominently visible to a large area of the county. Minor ridgelines are typically lower in height, when compared to the surrounding terrain and may be visible only to a limited area, or have a backdrop of a nearby higher topographical feature.

“Ridgeline” shall mean a visually prominent, relatively narrow strip or crest of land, which includes the highest points of elevation within a watershed, that separates one drainage basin from another.

“Slope” shall be determined in the same manner as defined in Section 18.108.030 of the code.

“Structures” shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner. Structure includes, but is not limited to, primary and accessory buildings, single-family residences and improvements, additions, reconstruction and remodeling to said structures.

“Substantially” shall mean fifty-one percent or more of viewable areas as it relates to views or screening of structures and benches and shelves from the designated road(s). (Ord. 1232 § 1, 2003; Ord. 1189 § 3 (part), 2001)

### 18.106.030 General provisions

- A. Applicability—New and Expanded Structures. No building permit, erosion control plan for structural development, grading or other administrative permit shall be issued by any county staff, agency or department for any new structure or improvement to an existing structure if the structure is located on a slope of fifteen percent or more as defined in Section 18.106.020 or if the structure is located on any minor or major ridgeline as defined in Section 18.106.020 except as specifically provided for herein. The ordinance codified in this section shall apply to all new structures located on slopes of fifteen percent or more or located on a minor or major ridgeline. In the event of a conflict among the regulations in this chapter and those elsewhere in this code, the regulations in this chapter shall prevail. The provisions of this chapter shall also apply to projects undertaken by public agencies and special districts except for the maintenance of existing county public roads within existing right-of-ways.
- B. Applicability—Grading or Earthmoving Activities. No permit or administrative or discretionary approval shall be issued to authorize any grading or earthmoving activity, including grading or earthmoving necessary to create or improve an existing or new driveway, road or other access, or benches or shelves, if such earthmoving or grading would occur on slopes of fifteen percent or more until the applicant has complied with the applicable provisions of this chapter.
- C. Relationship to the Review of Tentative Parcel Maps, Final Maps, and Subdivision Maps. All future building sites identified on either a tentative parcel map, final map, or subdivision map shall be reviewed and conditions of approval established to ensure conformity with the purpose and intent of this chapter.
- D. Relationship to Previously Approved Use Permits and Small Lot Subdivisions. All structures described in a use permit approved prior to the effective date of the ordinance codified in this section shall not be subject to the requirements of this chapter. Parcels in small lot subdivisions (defined as groups of at least five parcels of less than two acres each for the purposes of this section) established prior to the effective date of the ordinance codified in this section shall not be subject to the requirements of this chapter.
- E. Relationship to Previously Accepted or Approved Building Permits. All residential structures or accessory structures for which a building permit was approved prior to the effective date of this ordinance, or for which a building permit application had been accepted and deemed complete for departmental review by the county prior to December 1, 2001, shall not be subject to the requirements of the chapter. Such structures and the accompanying permits may be modified prior to the final occupancy inspection if the predominant portion of the proposed modifications to the structure is screened from view from a designated public road by natural vegetation, landscaping, architectural design, and colortone that is in accordance with the Design Manual and provisions of this chapter.
- F. Relationship to Use Permit Applications. Applications requiring the issuance of a use permit, as required by the code, will be reviewed for their adherence to the

requirements of this chapter during the application process for the issuance of the use permit.

- G. Relationship to Conservation Regulations. The structures or activities referred to in Section 18.108.050, except subsections (A) and (B), shall be exempt from the requirements of this chapter and will be cleared for further processing.
- H. Determination of Adverse Affects on Ridgelines. The director shall determine whether the proposed location of a structure could adversely affect a minor or major ridgeline for the purpose of administering this chapter based upon elevation of the proposed structure, the height of its roof line and the location of the structure in relationship to surrounding topography.
- I. Application Form and Fee. Applications for new, expanded or remodeled structures subject to this chapter shall be submitted to the department on a form provided by the department accompanied by a fee determined by a resolution adopted by the board of supervisors. (Ord. 1268 § 8, 2005; Ord. 1232 § 2, 2003; Ord. 1189 § 3 (part), 2001)

#### 18.106.040 Projects subject to administrative review

- A. General Provisions. Permit applications which meet the criteria in subsection (A) or (E) of Section 18.106.030, and/or grading or earthmoving activities meeting the criteria in subsection (B) of Section 18.106.030, shall be submitted to the department for review by the director. If the application, either as submitted, or upon the inclusion of specified measures, meets the criteria specified in subsection (B) or (C) of this section, the director shall certify that the project complies with the applicable provisions of this chapter and the project will then be cleared for continuing processing pursuant to Title 15 of the code. The director may require the submittal of additional information including, but not limited to, a photo or computer simulation of the project and associated improvements, prior to determining that the project meets the criteria contained in this chapter.
- B. Visibility Determination. If the director determines that the project cannot be viewed from any designated public road, because of its relationship to surrounding topography or existing vegetation, then the project will be cleared for further processing pursuant to the code. If the determination was made based on existing vegetation coverage, then the property owner, prior to the issuance of a building permit, shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring the existing covering vegetation to be maintained, or replaced with equivalent vegetation, by the owner or the owner's successors, so as to prevent the project from being viewed from any designated public road.
- C. Administrative Criteria. A project shall be certified and cleared for further processing, if the director determines that a project meets all of the following conditions:
  - 1. The highest point of the proposed structure is located more than twenty-five vertical feet below a major or minor ridgeline;

2. The project as designed and sited meets all of the following standards and substantially conforms to the requirements set forth in the Design Manual:
  - a. The maximum floor area, including all floors, of the main residence or agricultural structure is four thousand square feet or less and the maximum floor area, including all floors, for accessory structures are a combined total of two thousand five hundred square feet or less,
  - b. The height of the structure is twenty-four feet or less as measured from finished grade along fifty percent or more of the longest wall as viewed from any designated public road,
  - c. The improvement(s), including any required earthmoving or grading associated with the structure shall minimize removal of existing vegetation with emphasis on preserving mature trees. If the improvements require the removal of any tree with a diameter of six inches or greater, a detailed landscaping plan shall be prepared showing the location and replacement of trees and vegetation in a manner which screens the improvements from substantial views of designated public roads,
  - d. A significant portion of natural on-site vegetation has been retained to naturally screen the project from views of designated public roads,
  - e. Landscaping will be installed and designed to screen the project from substantial views of designated public roads,
  - f. The project lighting, including site lighting, has been designed to minimize off-site visibility and glare,
  - g. The exterior color treatment of the structure will blend with the color of surrounding vegetation and landforms,
  - h. Exterior windows and trim are non-reflective, and
  - i. Roof angles and composition are designed to conform to existing landforms and landscape.
3. If the structure is an addition to an existing residence or an agricultural structure, the total floor area, including all floors shall not exceed four thousand square feet. If the addition pertains to an accessory structure, the total floor area, including all floors, shall not exceed a combined total of two thousand five hundred square feet;
4. The project as sited and designed shall be in substantial compliance with the Design Manual to reduce its visual impact on the views of major and minor ridgelines as viewed from any designated public road and unique topographic or geologic features as viewed from any county road. The following landforms will be considered to be unique topographic or geologic features for the purposes of this subsection: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John;
5. Involves the grading of less than one and one-half acres of land
6. Future structures, including roads, driveways, wastewater disposal systems, and necessary earthmoving to construct project improvements shall be located to avoid environmentally sensitive areas as defined by Section 18.08.270 of the code;

7. 7. A detailed landscape plan prepared by a qualified landscape professional shall be prepared which incorporates the criteria set forth in the Design Manual for review and approval by the director;
  8. That prior to the issuance of a building permit, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successors so as to prevent the project from being viewed from any designated public road.
- D. Projects that do not satisfy the criteria and standards contained in Section 18.106.040 shall be subject to review and approval under Section 18.106.050. (Ord. 1232 § 3, 2003; Ord. 1189 § 3 (part), 2001)

#### 18.106.050 Processing of projects not subject to administrative review and approval.

- A. A.If the director determines that a project does not meet the criteria in Section 18.106.040 the project shall not be cleared for further processing until the findings contained in subsection (B) of this section are made and a permit is issued by the zoning administrator, or upon referral, by the commission.
- B. The zoning administrator or commission shall make the following findings prior to approving a project:
  1. The project as designed or modified is consistent with Chapter 18.108 of the code;
  2. If the highest point of the proposed project is located less than twenty-five vertical feet below a major or minor ridgeline, that measures have been included in the project to reduce its visual impact on the major or minor ridgeline through use of existing natural vegetation, landscaping, topographical siting, architectural design, and colortone. However, if the highest point of the proposed structure is less than twenty-five vertical feet below the major or minor ridgeline and the existing vegetation, proposed landscaping, topographical siting, architectural design, and colortone do not screen the predominant portion of the proposed structure, the application shall be forwarded to the commission for a possible exception pursuant to Section 18.106.070;
  3. The proposed structure, access roads and other site improvements are sited and designed to minimize adverse effects on views from designated public roads;
  4. The proposed structure, access road and other site improvements, including earthmoving or grading, and benches or shelves minimize the removal of a significant portion of the vegetation;

5. The siting and design of site improvements and access roads minimize grading and alteration of natural landforms and topography, which includes a review of alternative sites on the subject parcel or contiguously owned parcels;
6. A landscape and/or vegetation retention plan in conformance with the Design Manual has been submitted and approved for the site that would provide maximum screening from designated public roads through preservation of existing vegetation and the planting of new vegetation to increase the extent of native or adapted vegetation on-site in a manner that is consistent with the Napa County fire department requirements for defensible space;
7. The proposed structure and associated improvements substantially conform with the criteria and requirements detailed in the Design Manual to the greatest extent possible;
8. That prior to the issuance of a building permit, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successor so as to prevent the project from being viewed from any designated public road. (Ord. 1232 § 4, 2003; Ord. 1189 § 3 (part), 2001)

#### 18.106.060 Required public and private notification

- A. Within seven days of the issuance of a tentative decision that the project is subject to administrative approval under Section 18.106.040 the director shall give notice of his tentative decision, including the date on which the tentative decision will become final, which date shall be ten calendar days following the date notice of the tentative decision is mailed. The notice shall be provided to the city or town closest to where the project is proposed to be built and to all public or private property owners located within three hundred feet of the outer perimeter of the property on which the project would be constructed as shown on the latest equalized assessment roll.
- B. The tentative decision shall be final once the period identified in the notice has expired unless an appeal has been filed by the applicant or any interested person pursuant to Chapter 2.88 of this code, in which case the tentative decision shall become final only if and when the appeal is withdrawn, dismissed or denied. If the appeal is granted, in whole or in part, the decision of the board on appeal shall become final in the manner and within the time set forth in Chapter 2.88. (Ord. 1232 § 5, 2003; Ord. 1201 § 7, 2002; Ord. 1189 § 3 (part), 2001)

#### 18.106.070 Exceptions

Upon application by the property owner of a site, an exception to the requirement contained in Section 18.106.050(B)(2) may be granted by the commission to authorize construction of a structure within twenty-five vertical feet of a major or minor ridgeline. Such exception may

be granted if, after conducting a public hearing, the commission makes all of the following findings:

- A. Compliance with the provisions of Section 18.106.050(B)(2) would result in greater visual impact than would alternate building locations on the same parcel;
- B. Compliance with the provisions of Section 18.106.050(B)(2) would result in greater impact on existing landforms and landscape than would alternate building locations on the same parcel;
- C. Measures have been included in the project to reduce its visual impacts as seen from any designated public roads. Such measures include but are not limited to:
  1. Installation of landscaping designed to screen the project from view of designated public roads;
  2. Low level lighting on buildings and site which minimize off site visibility and glare;
  3. Non-reflective exterior windows and window frames;
  4. Use of earth tone colors on building exteriors;
  5. Roof angles and composition designed to conform with the existing land forms and landscape; and
  6. Building height has been designed to minimize the silhouetting against the sky when viewed from any designated public road or open space owned or managed by a public agency or land trust.
  7. That prior to the issuance of a building permit, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successors so as to prevent the project from being viewed from any designated public road.
- D. The project as designed or modified is consistent with the requirements of Chapter 18.108 of the code. (Ord. 1232 § 6, 2003: Ord. 1189 § 3 (part), 2001)

### 18.106.080 Variances not prohibited

Nothing in this Chapter shall be construed as prohibiting any person from filing an application for a variance or as prohibiting the Board of Supervisors or Commission from approving a variance pursuant to Chapter 18.128 of the code. (Ord. 1189 § 3 (part), 2001)

### 18.106.090 Denials and potential takings

No action shall be taken or a decision made pursuant to this Chapter that denies the property owner economically viable use of the land (or the current legal standard in effect for a "takings" claim) under the Fifth Amendment of the U.S. Constitution at the time the applicant seeks project approval. (Ord. 1189 § 3 (part), 2001)

## General Practices, Requirements, And Examples

1. All final grades, including all cut and fill slopes, visible from any designated public road shall be:
  - a. Consistent with the existing landscape to the greatest extent possible, avoiding uninterrupted slope surfaces that stand out against existing topographic contours;
  - b. Contoured to resemble existing terrain by varying slope increments and breaking the visual surface of banks and inclines both vertically and horizontally as naturally as possible;
  - c. Constructed to allow for the creation of berms or mounding at the top of slopes and in other locations for the screening of structures and assurance proper site drainage.
  
2. Design, height and massing of hillside development shall:
  - a. Maintain a balance of scale and proportion using design components that are harmonious with natural landforms and landscaping;
  - b. Be small scale and low in height, conforming with hillside topography by stepping or staggering the mass of the proposed building up or down slope, avoiding flat pad construction and vertical massing;
  - c. Utilize structural elements, building materials and color tones which blend artificial surfaces with surrounding native elements;
  - d. Utilize construction materials, glass, roofing and other surfaces that are of a non-reflective nature;
  - e. Ensure articulated walls that utilize reveals, cornice detailing, alcoves or other features which are appropriate to the scale of the building and building projections, trellises, landscaping or other devices, which in total, serve to break up long, continuous building walls which are visible from designated public roads; and
  - f. Ensure that the proposed structure is not silhouetted against the sky when viewed from any designated public road.
  
3. Roadways, driveways and utility alignments shall be:
  - a. Located to minimize grading and earthmoving activity, by following existing contours and positioned upon gradual slopes whenever possible;
  - b. Constructed to blend with the existing landscape, through alignment with the natural curving contour of the land instead of keeping to straight lines or geometric patterns;
  - c. Concealed from view through preservation and maintenance of existing vegetation or through planned landscaping that is constant with the natural character of the area.
  
4. Landscape planting and vegetation preservation shall:
  - a. Incorporate trees where appropriate, planted in random groupings or clusters that mimic or maintain natural assemblages rather than in systematic rows;
  - b. Maintain vegetation lines which convey the existing slope of the hillside;
  - c. Preserve native vegetation, including grasses and open space when ever possible;

- d. Use native materials to the greatest extent possible and/or non-natives that are compatible with indigenous vegetation and confined to the adjacent vicinity of the proposed structure;
  - e. Include a sufficient irrigation, maintenance and monitoring program designed to provide species requirements as well as protect against sedimentation, soil loss and land sliding;
5. Exterior and landscape lighting applications shall be:
- a. Designed to minimize nighttime disruption and visual glare by shielding lamp sources downward and away from view of designated public roads;
  - b. Controlled by timers and/or motion sensors, to limit the duration of use and reduce prolonged glare;
  - c. Sized with the minimum wattage possible to meet desired application.

## Appendix B: Warwick, NY: Ridgeline Overlay District

### § 164-47.1. Ridgeline Overlay District

- A Findings. The Town of Warwick finds that the natural open character of the Town's ridgelines is a critical feature whose conservation enriches and benefits both residents and visitors, as documented in the Town's 1999 Comprehensive Plan. EN(51) Conservation of the scenic character of these areas of the Town emerged as an important priority in the public planning process, conducted from 1994 to 1999. The Town, therefore, finds that protection of the scenic character of the Town's ridgelines is important to maintaining rural character, a sense of place, and scenic landscapes, all of which contribute to the Town's quality of life and its attractiveness for residential and commercial development, as well as for tourism. The Town further finds that development of the area covered by this overlay district is appropriate, if such development is carefully planned and designed to maintain, conserve, and enhance to the extent practicable the scenic features of the area and the views into the landscape from public roads. Ridgeline conservation will also have the effect of protecting Warwick's important wildlife habitats and environmentally fragile areas as well as preserving open space.
- B Purpose. The purpose of the Ridgeline Overlay District (hereafter the "RL-O District") is to establish clear guidelines for future development and protection of the Town's ridgelines, which are found largely at higher elevations and which comprise the most scenic and environmentally sensitive areas of the Town. [Amended 10-24-2002 by L.L. No. 6-2002]
- C Location. The RL-O District consists of two parts, labeled "RL-O1" and "RL-O2," encompassing those lands shown on a map entitled "Town of Warwick Ridgeline Overlay" which is hereby made a part of the Town of Warwick Zoning Map. This area encompasses those lands identified in the Town of Warwick Comprehensive Plan as "important views" and "scenic roads." RL-O1 areas constitute elevations of the Town 600 feet or more above mean sea level west of the Wawayanda Valley, as identified on the U.S. Geological Survey's topographic maps, and RL-O2 areas constitute elevations of the Town 700 feet or more above mean sea level east of the Wawayanda Valley, as identified on the U.S. Geological Survey's topographic maps. [Amended 10-24-2002 by L.L. No. 6-2002]
- D Applicability.
- (1) Land subdivision, special use permit, and site plan approval. The provisions of this section shall apply to all applications for land use development including subdivision, special use permits, site plan approval, zoning variances, zoning amendments, building permits for new residential dwellings, dwelling additions exceeding 300 square feet, and accessory structures exceeding 300 square feet, on any parcel of land lying fully or partially within the mapped RL-O District. However, the RL-O District requirements shall not be used to lessen the underlying zoning district density. Except as provided herein, no land shall be developed and no building or structure erected, expanded, or developed unless the

Board or Building Inspector granting such approval finds that the development proposed will be consistent with the requirements of the RL-O District. Such Board or Building Inspector shall impose reasonable conditions, which it deems necessary in order to make such a finding. The provisions of the underlying zoning district shall remain in effect except where otherwise specified herein. [Amended 1-24-2002 by L.L. No. 2-2002; 10-24-2002 by L.L. No. 6-2002]

- (2) Conflict. In case of any conflict between the provisions of this section and the requirements of the underlying district, other sections of this chapter, the Town Road Specifications, or Chapter 137, Subdivision of Land, this section shall control.
- (3) Approval conditions. Any condition of approval necessary to meet these regulations shall be clearly noted on the final plat or plan and filed with the Orange County Clerk. All deeds of new residential units within the RL-O District shall contain references to the ridgeline design requirements, enumerated in § 164-47.1F herein, that shall be placed on the subdivision plat as a condition of approval. [Amended 10-24-2002 by L.L. No. 6-2002]

E Preservation of scenic features. In any application subject to this section, features that provide scenic importance to ridgeline areas should be preserved to a reasonable extent. These features include but are not limited to individual healthy trees within open fields that are at least 18 inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.

F Design requirements. All development within the RL-O District shall comply with the design standards and principles provided herein. The intent of the design requirements is to provide prospective applicants for land development with the types of development that the Town wishes to achieve within the RL-O District. The requirements are also intended to ensure that future development within the RL-O District creates no more than a minimal impact on the District and surrounding area, makes open space planning a central focus of any future development, requires that new development follow traditional settlement patterns within the District, and provides general siting principles to help landowners and the Planning Board plan projects that fit into the scenic and rural countryside found in the higher elevations of the Town. [Amended 1-24-2002 by L.L. No. 2-2002; 10-24-2002 by L.L. No. 6-2002]

- (1) Placement of structures. To ensure the placement of structures outside of the exposed ridgeline area on proposed building lots, building sites, including areas of cleared vegetation, shall be clearly designated on the applicable subdivision plat and/or site plan. Constructed structures shall not differ more than 20 feet in any direction from building site locations shown on approved subdivision and/or site plans at the time of building permit application. Wherever practical, structures shall be sited at the lowest elevation possible to be as visually inconspicuous as possible when seen from a distance and from lower elevations. In no case shall development occur along and/or project above ridgelines when viewed from the locations identified in § 164-47.1F(3)(a) below. [Amended 9-11-2003 by L.L. No. 4-2003]

- (2) Restrictions on height. Within the R-O District, no principal or accessory structure with a building height of greater than 25 feet shall be constructed unless visual cross sections or other appropriate methods demonstrate that the subject structure could be constructed with a building height greater than 25 feet, in conformance with Table of Bulk Requirements, without unduly impacting ridgelines and scenic viewsheds.EN(52)
- (3) Mitigation of impacts. All principal and accessory structures shall comply with the following measures, designed to mitigate the impact of the structure, including clearing of vegetation and regrading, unless explicitly exempted elsewhere in this section.
  - (a) Visibility. All structures shall be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land within the RL-O District. Public views shall be considered to be from any location listed on the SEQR Visual Environmental Assessment Form Addendum (V-EAF) pursuant to 6 NYCRR 617.20 Appendix B. These locations are frequented by the public and offer unobstructed views of the Town's ridgeline landscapes. Visibility shall be measured using a condition of no leaves on trees.
  - (b) Colors.
    - [1] Structures should blend in with natural surroundings through preferred use of stone and/or natural wood siding. In all cases, structures shall be constructed and maintained so that predominate exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials:
      - [a] Repeat the colors found most commonly in the land and vegetation around the building (earth tone); and
      - [b] Have a light reflective value of no more than 60%.
    - [2] Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominate colors on any wall or roof surface.
  - (c) Vegetation. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views. This section is not intended to limit forest management in ridgeline areas when practiced in accordance with environmentally sound and sustainable silvicultural principles. Forest management constitutes a beneficial and desirable use of the Town's forest resources and makes vital contributions to the economy, environment and aesthetic features of Warwick. The tradition of using Warwick's forest resources for the production of forest products and

related commercial activities, for recreation, and for sustenance of the Town's wildlife is essential to a favorable quality of life.

- [1] Landscaping. As a condition of approval, the area around each principal and accessory structure shall include at least one tree of a species with a mature height of at least 35 feet for each 2,500 square feet of lot or parcel area; provided, however, that this requirement shall not require any single-family residential lot to contain more than eight trees unless growing naturally on the site. Trees installed to meet the requirements of this subsection are preferably to be of coniferous species, shall be a minimum of six feet tall when planted, and shall be planted before a certificate of occupancy is issued for the principal structure, or if that is not possible due to planting season or weather conditions, then within one month of the planting season for the species. Landscaping survivability shall be assured in accordance with § 164-46G(3)(n)[3]. Any existing trees that meet the height requirement are counted towards satisfaction of the tree requirements, regardless of whether they are coniferous or deciduous. Concurrently with the review and approval process, the applicant submitting such plan may request approval of a landscape plan in which the vegetation requirements for certain lots or tracts may be increased, decreased or deleted, to reflect the degree of visibility of structures located in various portions of the subdivision or site. Additionally, such applicant may request alternative placement of landscaping on certain lots and tracts if such placement provides adequate mitigation of the visual impact of the roofline of the principal structure. Landscaping required by this section shall be credited against the landscaping requirements imposed by any other section of this chapter.
- [2] Tree cutting. All timber harvesting in the Ridgeline Overlay District shall comply with the most recent versions of Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Planning Department. There may be situations where strict adherence to certain provisions of the Timber Harvesting Guidelines for New York and Best Management Practices are impossible or impractical to attain. Alternate measures exist that can be substituted for such guidelines in appropriate circumstances. In such cases, the Town of Warwick Code Enforcement Officer may grant a waiver from the strict application of the guidelines where reasonable and necessary.
- [a] Timber harvests and tree removal in excess of 1/4 acre are allowed by permit from the Planning Board in accordance with Chapter 150 of the Town Code. If the regulations of the RL-O District conflict with Chapter 150, the RL-O regulations shall apply.

- [b] Clear-cutting of all trees in a single contiguous area in excess of 1/4 acre in area shall be prohibited. This Subsection F(3)(c)[2][b] shall not apply to: [Amended 9-11-2003 by L.L. No. 4-2003]
  - (i) Christmas tree culture or other existing tree plantation;
  - (ii) Harvests conducted in accordance with a timber harvesting plan prepared pursuant to § 480-a of the New York State Real Property Tax Law;
  - (iii) Tree clearing for farm purposes within agricultural districts established pursuant to New York State Agriculture and Markets Law;
  - (iv) Severe natural disturbances, which include fire, insect infestation, disease, ice and wind;
  - (v) Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for windthrow due to factors such as soils, rooting depth, crown ratio, or stem quality;
  - (vi) Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State Department of Environmental Conservation Forester, a member of the New York Institute of Consulting Foresters, or a Cooperating Consultant Forester.
  
- (4) View preservation. A conservation easement, pursuant to § 247 of New York State General Municipal Law and §§ 49-0301 through 49-0311 of the New York State Environmental Conservation Law, is the preferred means to protect or buffer views. Other legal instruments, such as deed restrictions as described in § 164-41.1J, and acceptable to the Town Attorney, may be used to protect or buffer views.
  
- (5) Lighting. Exterior lighting in the RL-O District shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. Under no circumstances shall the light level at any lot line exceed 0.2 footcandle, measured at ground level. Floodlights shall not be used to light any portion of a principal or accessory structure facade (except for the temporary lighting allowed under § 164-43.4), and all outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a "full cutoff light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries.

- (6) Design principles. To meet the purposes of the RL-O District, the following design principles shall apply:
- (a) Parking. Parking lots for nonresidential and multifamily residential uses shall be provided with screened parking wholly at the side and/or rear of the structures, provided such an arrangement does not create a significant visual effect. If parking is provided at the side of structures, at least a ten-foot-wide landscaped area (exclusive of that required for sidewalks or utility easements) shall be provided between the road right-of-way and the parking lot, to be planted with shade or ornamental trees and at least a three-foot-high evergreen hedge, wall or fence. In addition, at least one tree and three shrubs shall be provided for each eight parking spaces in interior areas of the parking lot, whether such lot is provided at the side or rear of structures. Parking for single-family dwellings shall also be provided at the side and/or rear of the principal structure, provided such an arrangement does not create a significant visual effect. This principle shall not apply to conservation density subdivisions.
  - (b) Conservation density subdivisions within the RL-O District shall be encouraged as an alternative to maximum density development.
  - (c) Wherever practical, vegetation and topography shall be used to buffer and screen buildings.
  - (d) Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used to increase the screening of buildings.
  - (e) Buildings shall be sited so that they do not protrude above tree tops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees or hilltops.
  - (f) All electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.
- (7) Dimensional regulations. The following dimensional regulations shall apply to development within the RL-O District:
- (a) All subdivisions of land, other than conservation density subdivisions, should be considered for cluster subdivision in accordance with this chapter and New York State Town Law.
  - (b) Nonresidential and multifamily residential buildings shall be sited in clusters.

- (c) No building shall exceed 7,500 square feet in footprint unless the structure is to be used exclusively for agricultural purposes.
  - (d) The maximum allowable impervious surface coverage on any parcel proposed for subdivision or development shall be 20%. To implement this requirement, restrictions on impervious surface coverage for individual subdivided lots shall be shown on any subdivision plat.
  - (e) Maximum building height requirements shall apply to the peak of the roofline except for cupolas or turrets as well as silos or barns when used in conjunction with agricultural operations, which may exceed the maximum building height.
- (8) Prevention of soil erosion. No site plan or subdivision plat shall be approved unless it includes soil erosion and sediment control measures, prepared in accordance with the standards described in manuals in common usage, such as the New York State Department of Environmental Conservation's Reducing the Impacts of Stormwater Runoff from New Development or the New York State Soil and Water Conservation Committee's New York Guidelines for Urban Erosion and Sediment Control. Landowners shall bear full responsibility for the installation, construction, and maintenance of all erosion control measures required as a condition of approval.
- (9) Referral. The Town of Warwick's ridgeline areas contain significant wildlife habitats, including those frequented by endangered and threatened species. To receive assistance in its review of applications, the applicable board may refer the proposed plan to the New York State Department of Environmental Conservation and/or the New York Natural Heritage Program for its review and recommendations. To receive further assistance, such reviewing board may refer the proposed plans to any such agencies or officials of the Town, county, state, or federal government as the board may deem appropriate.
- (10) The applicable reviewing board or Building Department may waive some or all of the regulatory requirements of this section in the RL-O District under any of the following circumstances:
- (a) The structure or area within the RL-O District is situated so that it does not create a significant visual impact that cannot be mitigated, when viewed from visually sensitive areas, including public view locations identified in § 164-47.1F(3)(a), scenic roads or important views identified in the Town of Warwick Comprehensive Plan;EN(53)
  - (b) The reviewing board or Building Department finds that the work to be done is of a minor nature and is consistent with the design standards set forth herein.
  - (c) The use involves commercial agricultural operations.

## **Appendix C: Stowe, VT: Ridgeline and Hillside Overlay District**

### **SECTION 16 RIDGELINE & HILLSIDE OVERLAY DISTRICT (RHOD)**

(Added 8/3/98)

#### 16.1 Purpose

The purpose of the Ridgelines/Hillsides Overlay District (RHOD) is to protect the scenic and ecological resources associated with lands characterized by high elevations, steep slopes and visual sensitivity in a manner that allows for carefully designed, low-impact development.

#### 16.2 Authority and Effect on Existing Regulations

The RHOD is adopted pursuant to the Act [4405 & 4407]. The adoption of the RHOD shall not repeal or alter any existing ordinances, regulations or bylaws of the Town of Stowe. These regulations establish standards and procedures that are in addition to those contained in the Town of Stowe Zoning & Subdivision Regulations.

#### 16.3 District Boundaries

The RHOD shall apply to all lands in the Town of Stowe designated by the “Ridgelines/Hillsides Overlay District” Map dated September 1997.

#### 16.4 General Submission Requirements and Procedures

No zoning permit for any development within the RHOD boundary shall be issued without the prior approval of the Planning Commission, in accordance with the following procedures and standards.

- (1) Review Procedures: All land development in the RHOD shall comply with a hillside development plan reviewed and approved by the Planning Commission in accordance with the following procedures.
  - A. Preliminary Review: The applicant shall schedule a meeting with the Planning Commission to review the Site Development Plan and set forth in Section 16.4 (2) A. Basic Submission Requirements. The Planning Commission may authorize a committee which includes the Zoning Administrator, Planning Director or any member of the Planning Commission to conduct a preliminary review. The purpose of the preliminary review is to evaluate the conceptual development plans, including the location and general character of the site; to consider whether the proposed development should be classified as minor; and to provide the applicant with clear direction regarding the submission

materials needed for review under these regulations. The committee or individual shall recommend to the full Commission whether the proposed development should be classified as minor.

- B. Project Classification and Notification of Submission Requirements: The Commission shall determine whether the application is to be classified as “minor” or “significant”, in accordance with the standards included in Section 16.4 (1), C, Project Classification Criteria, below. In the event the application is determined to be “significant”, the Commission shall notify the applicant of this determination in writing, and in so doing shall indicate what supplemental submission requirements shall be required for review by the Planning Commission. Projects classified as “minor” may be issued a zoning permit, providing the development is in compliance with all other applicable regulations.
- C. Project Classification Criteria: The Commission shall classify a development project as minor upon finding that the project meets the standards of Section 16.5 and that the following conditions are met:
1. The small scale and limited scope of the development project involves a minimal amount of construction, excavation and/or lot clearing and, poses minimal threat to aesthetic or environmental resources. Examples of projects that are small in scale or limited in scope may include outdoor decks and small accessory buildings and additions, and/or;
  2. The location and character of the development site is such that the proposed development can take place without adverse aesthetic or environmental impacts. Examples of such sites might include those characterized by gentle slopes, proximity to areas characterized by existing moderate to high development densities, or areas that are not visible from important vantage points because of surrounding terrain, and/or;
  3. The proposed project involves the renovation or expansion of a building constructed prior to August 3, 1998, providing said renovation or expansion does not result in an increase in the total aggregate floor area of the building in excess of 125% of the total floor space in existence as of August 3, 1998, or:

4. The proposed project is sited within a previously approved building zone as part of an approved subdivision. A building zone is an area that has been specified on the approved subdivision plans for the placement of a dwelling and lies well within the standard setback requirements.
5. The proposed project is sited on a building lot subject to Planning Commission subdivision approval, dated August 3, 1998 or later, which includes specific findings and conditions regarding compliance with the RHOD development standards and guidelines, and the applicant has clearly demonstrated that the development project meets all of the relevant conditions and related standards.

In classifying a project as minor, the Commission may place appropriate conditions on the scope, scale and general character of the development to ensure compliance with the development standards and guidelines set forth below. Projects classified as significant shall be subject to further review by the Commission, in accordance with the process and standards set forth below.

A project classified as minor may be issued a zoning permit only for the development, landscaping, clearing and related site improvements set forth in the Site Development Plan submitted per the requirements of Section 16.4(2)A. Any deviation from the activities described in the Site Development Plan, including forest management shall require a new zoning permit. Projects re-classified as significant shall be subject to further review by the Commission, in accordance with the process and standards set forth below.

- D. **Reconsideration of District Boundaries:** In the event an applicant questions the determination that a proposed development falls in the RHOD, upon request and following notice and public hearing, the Zoning Board of Adjustment shall determine whether or not such planned development is located within the RHOD. The landowner requesting such determination shall have the burden of proof.
- E. **Review of Significant Projects:** Upon submittal of the development plan, the Planning Commission shall schedule a public hearing in accordance with 24 V.S.A. Chapter 117 [Section 4447]. The Commission shall review the materials submitted, together with other relevant plans and resources, and may elect to visit the proposed development site. The Commission shall act to approve, approve with conditions or disapprove any such site development plan within forty-five (45) days after the date of the final public hearing, and failure to so act within the forty-five (45) day period shall be deemed approval. Upon approval of the site development plan, the Zoning Administrator may issue a zoning permit pursuant to all applicable provisions of this ordinance.

- F. Coordination with Subdivision Review: In addition to the provisions of the Stowe Subdivision Regulations, all land to be subdivided within the RHOD shall satisfy the following standards:
1. Density Analysis. Prior to submitting an application for preliminary layout or final subdivision approval, the applicant shall complete a slopedensity analysis to determine the allowable density for the subject parcel(s). Such analysis shall include a parcel map showing the average slope and an indication of the total area (in acres or square footage) of the parcel with an average slope steeper than 20%. Density will be calculated based on the minimum lot area for the underlying zoning district, with the minimum lot area for the portion of the parcel having an average slope of 20% being four times that of the underlying zoning district. For example, a 100 acre parcel in the RR-5 district with 60 acres having an average slope of less than 20% and 40 acres in excess of 20% shall have a total allowable density of fourteen (14) lots (i.e.  $100 \text{ acres} = (60 \text{ acres} < 20\%/5 \text{ acres} = 12 \text{ lots}) + (40 \text{ acres} > 20\%/5 \text{ acres} \times 4 = 2 \text{ lots}) = 14 \text{ units/lots}$ ). The applicant may submit an independent density/slope analysis prepared by a registered Vermont surveyor or a registered Vermont Engineer, or the applicant may request that such an analysis be prepared by the Stowe Planning Office using available data and GIS technology.
  2. Coordination with Section 5.2 of the Stowe Subdivision Regulations. In addition to the density standards set forth above, the Commission may grant subdivision approval with conditions related to lot clearing, landscaping, house siting, architectural design or other relevant issues necessary to ensure compliance with these regulations. In instances where conditional subdivision approval has been granted within the RHOD, applications for review under these regulations may be classified as a minor application if the Planning Commission or its designee determines that the applicant has complied with all of the conditions of subdivision approval and standards and guidelines of these regulations.

(2) Submission Requirements: In accordance with the standards of the overlay district, any of the following plans and materials may be required. Upon determination by the Commission that a project is to be classified as significant, the applicant will receive a checklist of required documents, plans and information necessary for the Commission to conduct a complete and proper review of the application.

- A. Basic Requirements: The following information and materials are required for all applications for review under Section 16.4(1)A. Preliminary Review.
1. Site Development Plan: Two complete sets of site development plans, drawn in an appropriate scale on paper not smaller than 18" x 24". Such plans shall provide adequate information necessary to review the proposed project, including a general indication of the location and design of proposed development; an indication of the physical characteristics of the development site, including areas characterized by steep slopes, existing and proposed drainage patterns and forested and open areas; proposed landscaping, clearing and forest management; road access and driveway location, and any other information relevant to the proposed development and development site.
- B. Supplemental Requirements: Upon determination that the project is significant pursuant to Section 16.4(1)C, the Commission may require one or more of the following prior to the review under Section 16.4(1)E:
1. Grading Plan: Existing and proposed contours at a maximum of 5' intervals for the area surrounding the proposed development, such area to be of sufficient size to show the relationship of the development to the surrounding terrain.
  2. Lighting Plan: Location, type and height of all exterior lighting (including security lighting) is to be shown on the site development plan. Lighting studies may be required and would include photometric analyses of exterior lighting as well as a review of any impacts interior lighting may have on nighttime visibility through windows, such as the visibility of light through building fenestration.
  3. Visibility Studies: Viewshed analyses, line of site sections, site photography and other means to assess the visual impact of the proposed application. On site measures such as plywood and pole mock-ups, and survey tape layout of site elements may be also be required in the event the site is deemed to be sensitive by the Planning Commission or its designee.
  4. Stormwater Management/Erosion Control Plan: An adequate stormwater drainage and erosion control plan, prepared by a registered Vermont engineer, shall be requested when the average slope of the

site is steep/severely steep or there are major headwater streams and/or major drainage areas and waterways located on the site.

5. Architectural Plans and Renderings: Building design drawings clearly depicting all proposed structures to scale and their location on the site in relation to the physical and natural features of the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display building elevation and architectural design; building materials, exterior colors and window fenestration. All structures proposed, including outbuildings and garages are to be shown.
  6. Landscape Plan: Existing vegetation and proposed landscaping and clearing plans showing proposed type, size and location of all vegetation to be preserved and/or installed, along with other landscaping elements such as gazebos, berms, fences, walls, etc. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes (within at least 30'). A species list of existing vegetation and a plan for the maintenance of the existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival, and if necessary, replacement of designated trees during and after the construction and/or installation of all site improvements
  7. Access Plan: A plan including existing roads, ROW's and trails; proposed roads, trails, walks, paths, parking areas, etc. Such a plan would include proposed paving materials, lopes of proposed access routes and erosion control measures. This plan might be combined with the Stormwater Management/Erosion Control Plan and should include road profiles as well.
  8. Slope Analysis: Prepared pursuant to Section 16.4(1)F. 1.
- C. Technical Assistance: The Planning Commission may seek the assistance of technical experts, such as engineering or architectural professionals, to provide independent analysis related to specific applications. Such experts will be compensated in accordance with the Town of Stowe Planning and Zoning Fee Schedule.

## 16.5 Standards/Guidelines

- (1) General Requirements: To protect the unique visual and environmental character of those areas of Stowe within the RHOD, especially those characterized by steep slopes, prominent knolls, ridgelines and significant focal points, all development shall be designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town.
- (2) (2) Designation of Vantage Points: For the purposes of the RHOD, vantage points shall be defined as maintained (class 3 or higher) public roads, state highways and municipal properties. In reviewing projects to determine compliance with these standards, and to identify appropriate mitigation to ensure that a project does not result in an undue adverse impact on scenic resources, the Commission shall consider the relative importance of the vantage points from which the project is visible (affected vantage points). Such consideration shall include the number of affected vantage points; the volume of traffic using the affected roads or highways; the length of time that a project would be viewed by motorists traveling on the affected roads or highways; the project's distance from affected vantage points; and, the visibility of the project from vantage points typically used by pedestrians and/or serving as public observation points.
- (3) Standards and Guidelines: The following list of Standards, Guidelines and accompanying illustrations are the basis for guiding development in a visually and environmentally sensible way within the overlay district without an undue adverse impact to scenic and environmental resources. "Adverse" indicates a negative impact on an identified resource. "Undue Adverse" indicates that the proposed development violates one or more of the Standards set forth in this ordinance and that the impacts cannot be mitigated.

Standards are statements that express the development and design intentions of this overlay district. All development within this district must comply with these standards. The Standards reflect the visual and environmental concerns of the community in terms of the Town's hillsides and ridgelines.

Guidelines are instructive in nature. They suggest a variety of means by which the applicant might comply with the standards. The options for compliance are not limited to the guidelines listed, but the applicant can use the list to aid in the design process.

Illustrations graphically portray the prescriptions and concepts conveyed in both the Standards and Guidelines.

### A. Site Development and Environmental Protection

Standard 1.1. All development, including grading, clearing and construction of driveways, shall provide for the retention of native top soil, stabilization of steep hillsides, prevention of erosion, and consequent sedimentation of streams and watercourses. Peak stormwater discharge from the site after development shall not exceed pre-development levels for a two (2) year/twenty four (24) hour storm event and existing drainage patterns will not be altered in a manner to cause an adverse impact on neighboring properties, town highways or surface waters.

Guideline 1.1. The Vermont Erosion Control Manual for acceptable practices in site hydrology and soil conservation should be followed; where roads or driveways are proposed, culverts should be used at frequent intervals to avoid long, uninterrupted ditches and to disperse stormwater.

Guideline 1.2. On steep slopes, clearing should be avoided to prevent erosion resulting from stormwater runoff, and in areas where streams and intermittent watercourses are found, a buffer(s) area should be established to limit sedimentation or other adverse impacts on water quality.

Guideline 1.3. The flattest portion of the site should be used for locating house sites, subsurface sewage disposal systems and parking areas. (See illust. A1 & A2)

Guideline 1.4. Existing vegetative buffers should be employed as filter strips or employ vegetative stabilization methods where necessary.

Guideline 1.5. Where appropriate, long driveways and large parking areas should be avoided. Lot coverage and building footprints should be minimized and development clustered, all to minimize site disturbance and preserve large areas of undisturbed space. (See illust. A3)

Standard 2. Subsequent to the application for a zoning permit within the RHOD, forest management and timber harvesting shall, at a minimum, adhere to the guidelines included in the publication Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, published by the Vermont Department of Forests, Parks & Recreation in 1987.

Guideline 2.1. Forest management should maintain the appearance of an unbroken forested canopy as viewed from off-site, should protect aesthetic resources and wildlife habitat, and provide for the sustainable, ongoing management of forest resources.

Standard 3. Forest management activities designed as pre-development site preparation, including road and driveway construction, clearing and/or

grading for house-sites and septic systems or related work, shall be reviewed by the Planning Commission under these regulations. Where a landowner fails to submit pre-development site preparation plans to the Commission for review, the Commission may limit development to the non-impacted portion of the property and/or require the site to be restored or revegetated prior to development.

Guideline 3.1. Prior to implementing a forest management plan, the landowner should review the plan with Town Planning and Zoning staff to ensure that forest management activities and future development plans are consistent with the standards set forth in this ordinance.

Standard 4. Development shall not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts will be made to protect/preserve such areas and promote suitable buffers.

Guideline 4.1. Development should be clustered away from all fragile environments.

Guideline 4.2. If roads and bridges must be put in wetlands, they should intersect the wetland at the narrowest part. (See illust. A6)

Guideline 4.3. Existing vegetation should be preserved and, as much as possible, parcels should remain with their undisturbed portions connected to one another.

Guideline 4.4. Buffer widths and setbacks from streams should be established, the width of which should increase with the steepness and length of slopes, and the width of the stream. A general rule is to keep a 50' setback from streams on lands with less than 15% slope, and on steeper slopes the buffer distance should be increased as the slope increases. (See illust. A7)

#### B. Landscape and Scenic Character

Standard 5. If the project is on a forested hillside, there will be no significant exposure of buildings, and all development shall be minimally visible and blend in with surroundings in winter months. The amount and location of clearing adjacent to structures shall be limited; additional tree planting may be required in instances where such planting is needed to visually interrupt the portion of structures visible from defined vantage points.

Guideline 5.1. Clearing and forest management should be restricted to protect the unbroken forested backdrop. Generally, forest management will be limited to practices which maintain a forested appearance adjacent to buildings. (See illust. A8)

Guideline 5.2. Clearing of vegetation at the edge of the road should be minimal, clearing only as much as necessary to create a driveway entrance with adequate sight distance and proper drainage control. (See illust. B2)

Guideline 5.3. Clearing for views should be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades. View clearing should involve the selective cutting of small trees and the lower branches of large trees, rather than removing mature trees.

Guideline 5.4. On wooded sites, existing forest cover should be maintained adjacent to proposed building sites to interrupt the facade of buildings, provide a forested backdrop to buildings and reduce or eliminate the visual impact of new development from vantage points. (See illust. B1)

Standard 6. Development shall not detract from the sense of order or harmony of the landscape patterns formed by forests, agricultural fields and open meadows. (See illust. B3-B6)

Guideline 6.1. On parcels characterized by meadows, additional landscaping and/or reforestation may be employed immediately adjacent to proposed structures to interrupt the facade of buildings, provide additional trees as backdrop to buildings and/or soften the visual impact of new development from vantage points.

Guideline 6.2. Trees should be preserved or planted close to structures to provide screening and better blend structures into the wooded perimeter surrounding meadows.

Guideline 6.3. Buildings should be located outside of cleared meadows.

Guideline 6.4. Cleared meadows, reminiscent of historic hillside pastures, may be created but buildings should not be located in them (i.e. clearings should not frame and thereby draw attention to houses located on hillsides and ridgelines).

Guideline 6.5. Using stone walls and hedgerows as property lines is recommended and existing stone walls and hedgerows should be preserved

wherever possible. Should additional landscaping be required, it should be consistent with existing patterns such as hedgerows

Guideline 6.6. For both wooded and meadow sites, landscaping proposed for the project should be of native or naturalized hardy species consistent with vegetation types and patterns appropriate to the site and environs. Invasive, non-native species should always be avoided.

Guideline 6.7. Generally, the minimum caliper for trees is 2” and the minimum shrub size is 1 gallon.

Standard 7. During construction, trees identified on the landscaping plan are to be protected.

Guideline 7.1. Tree protection measure taken during construction should include snow fencing 5’ outside of drip line or, with approval, trunk protection and hay bale covering when construction work has to be within canopy.

Guideline 7.2. Trees should be saved undisturbed in groupings.

Guideline 7.3. Native excavated soils should be stockpiled. Where feasible, transplant existing vegetation, trees, shrubs and ground covers elsewhere on site or near to its original location.

#### C. Road and Driveway Access

Standard 8. Driveway grades shall not exceed 15% and shall have an average grade that does not exceed 12%. Where necessary, limited steeper grades are acceptable if they serve to better minimize overall erosion potential and environmental/aesthetic impacts, provided adequate access is ensured for fire and rescue vehicles.

Guideline 8.1 Wherever feasible or appropriate, retain and reuse old farm roads, town roads and trails instead of constructing new roads or driveways to minimize clearing and disruption of the landscape and relate to traditional and historic land use patterns.

Guideline 8.2. Applicant should try to minimize crossing of steep slopes with roads and driveways and should avoid roads “against” the contours; follow contours.

D. Building Design

Standard 9. Development will not result in any building, roof or appurtenant structure being located in a manner which would allow the building, roof or structure to visually exceed the height of land or tree line if it is protected serving as the visual and physical backdrop to the structure as viewed from vantage points. (See illust. D2)

Guideline 9.1. Buildings and structures should not be sited on high points, outcroppings or prominent knolls within the project site. (See illust. D1)

Guideline 9.2. When building on slopes, the preference is to set buildings into topography using partial earth sheltering. Try taking advantage of the topography by building multi-level structures with entrances on more than one level (i.e.: walk-out basements, garages under buildings).

Standard 10. The massing of a project (a single building or a group of buildings) shall be designed to minimize visual impacts and contribute to, and harmonize with, the scenic of the surrounding landscape.

Guideline 10.1. Building materials, exterior colors and fenestration that minimize year round visibility, reflectivity, and night-time light impacts should be selected. Oversized picture windows and large expanses of glass should be avoided or the visual impacts mitigated by dividers or other architectural design elements.

Guideline 10.2. A variety of volumes, roof planes and wall planes should be incorporated within a building project.

Guideline 10.3. The main roof line (ridges and eaves) of individual buildings should be broken and varied to reduce the buildings' visual scale.

Guideline 10.4. The surface of vertical walls should be modulated to avoid a single monolithic shape and/or to reduce the visual scale of buildings.

Guideline 10.5. Building design should reflect the natural patterns of the site and should be well integrated with site design and landscaping.

Guideline 10.6. Building design should be well integrated into the surrounding neighborhood and be in keeping with the character of the area.

Standard 11. Offsite light impacts shall be minimized. Outdoor lighting shall comply with the standards contained in Section 4.4 of these bylaws.

Guideline 11.1. The use of reflective surfaces and outdoor lighting fixtures higher than 15' should be minimized to limit the visibility of the development from off-site. Bollard, low post lighting and low level, indirect lighting are recommended; spot or flood lights should be avoided. (See illust. D4)

Guideline 11.2. Creative lot layout may also serve to limit off-site glare, visibility and night sky pollution by laying out buildings and structures that shield light fixtures from viewing areas.

E. Development Density

Standard 12. The minimum area for all lots in existence prior to August 3, 1998 shall be as established for the underlying district. Minimum area for any lot created after August 3, 1998 shall be as established for the underlying district, excluding any portion of the lot with an average steepness (slope gradient) in excess of 20%, and shall have an area four times (4x) the minimum lot area identified in the underlying district for that portion of the parcel.

Guideline 12.1. Where possible, development should take place on the portions of a lot where the slopes are less than 15%. No development should occur on land where the slope is greater than 20%.

(4) Pre-Existing Lots

In the case of lots created prior to August 3, 1998, compliance with the standards of Section 16.5 shall be achieved to the extent that it is possible while still allowing for reasonable use of the preexisting lot.

(5) Exemptions from these Regulations

A. The Commission may waive the density standards set forth in Section 16.5 (3) Standard 12 thereby allowing a total density not to exceed the density established by the underlying district, in the event that the applicant can demonstrate that, through Section 17. Planned Residential Development, the proposed development can be clustered on the portion(s) of the property laying outside of the RHOD boundaries; and/or on the portion(s) of the property not characterized by steep slopes,

other fragile environmental features or high visible locations in a manner that complies with all applicable standards of these regulations. In such a case, the portion of the property not used for the cluster development shall be maintained as open space consistent with Section 17.5 of these regulations and Section 5.3 of the Stowe Subdivision Regulations.

- B. Notwithstanding Section 16.4(1)F.1. and Section 16.5(3) Standard 12 of these regulations regarding density and minimum lot area, lands designated as Ski-PUD pursuant to Section 18.4 of these regulations shall have a development density calculated in accordance with Section 18.4(1)(D), regardless of slope gradient.
- C. Ski-lifts, ski-lift towers and trail improvements related to the operation of an alpine ski area shall be exempt from review under Section 16. RHOD.
- D. Telecommunications facilities located within the 28.4 acre “Co-Location Area” on the summit of Mount Mansfield are exempt from review under Section 16.5 Standard

9. Such facilities must comply with all other applicable standards of the Stowe Zoning Regulations.

## **Appendix D: Park City Sensitive Area Overlay Zone**

Park City Municipal Corporation Municipal Code

### TITLE 15 LAND MANAGEMENT CODE

#### CHAPTER 2.21 SENSITIVE AREA OVERLAY ZONE (SLO) REGULATIONS

*Chapter adopted by Ordinance 00-51*

##### 15-2.21-1. PURPOSE.

The purpose of the Sensitive Lands Overlay (SLO) is to:

- A require dedicated Open Space in aesthetically and environmentally sensitive Areas;
- B encourage preservation of large expanses of Open Space and wildlife habitat;
- C cluster development while allowing a reasonable Use of Property;
- D prohibit Development on Ridge Line Areas, Steep Slopes, and wetlands; and
- E protect and preserve environmentally sensitive Areas.

##### 15-2.21-2. OVERLAY REVIEW PROCESS.

The overlay review process has four primary steps:

- A **SENSITIVE AREA DETERMINATION.** Applicants for Development must identify the Property's sensitive environmental and aesthetic Areas such as Steep Slopes, Ridge Line Areas, wetlands, Stream Corridors, and wildlife habitat Areas and provide at time of Application a sensitive Area analysis.
- B **APPLICATION OF OVERLAY ZONE REGULATIONS.** Regulatory standards apply to the type of sensitive Area delineated.
- C **SITE DEVELOPMENT SUITABILITY REVIEW.** Staff shall review the sensitive Area analysis and delineation of sensitive lands. Staff shall report to the Applicant and the Planning Commission those appropriate Areas for Development.
- D **HARDSHIP RELIEF.** If the Applicant demonstrates that the regulations would deny all reasonable Use of the Property, the Planning Commission may modify Application of these regulations to provide the Applicant reasonable Use of the Property.

##### 15-2.21-3. SENSITIVE AREA OVERLAY ZONE ORDINANCE PROVISIONS.

- A **SENSITIVE AREA ANALYSIS AND DETERMINATION.** Any Applicant for Development must produce a sensitive lands analysis performed by a qualified professional(s) that identifies and delineates all the following features and conditions:
  - (1) **SLOPE/TOPOGRAPHIC MAP.** A Slope and topographic map based on a certified boundary survey depicting contours at an interval of five feet (5') or less. The map must highlight Areas of high geologic hazard, Areas subject to landsliding, and all significant Steep Slopes (Slope determinations shall be made upon Areas with a rise of at least twenty-five feet (25') vertically and a run of fifty feet (50') horizontally) in the following categories:

- (a) greater than fifteen percent (15%), but less than or equal to thirty percent (30%);
  - (b) greater than thirty percent (30%) but less than or equal to forty percent (40%); and
  - (c) Very Steep Slopes, greater than forty percent (40%).
- (2) RIDGE LINE AREAS. A map depicting all Crests of Hills and Ridge Line Areas.
- (3) VEGETATIVE COVER. A detailed map of vegetative cover, depicting the following:
- (a) deciduous trees;
  - (b) coniferous trees;
  - (c) gamble oak or high shrub; and
  - (d) sage, grassland, and agricultural crops.

The Community Development Department may require a more detailed tree/vegetation survey if the Site has unusual or Significant Vegetation, stands of trees, or woodlands.

- (4) DESIGNATED ENTRY CORRIDORS AND VANTAGE POINTS. Designated entry corridors and Vantage Points present within or adjacent to the Site, including Utah Highway 248 east of Wyatt Earp Way and Utah Highway 224 north of Holiday Ranch Loop Road and Payday Drive as identified by Staff. Typical Vantage Points are:
- (a) Osguthorpe/McPolin Barn
  - (b) Treasure Mountain Middle School
  - (c) Intersection of Main Street and Heber Avenue
  - (d) Park City Ski Area Base
  - (e) Snow Park Lodge
  - (f) Park City Golf Course Clubhouse
  - (g) Park Meadows Golf Course Clubhouse
  - (h) Utah Highway 248 at the turn-out one quarter mile west from U.S. Highway 40
  - (i) Highway 224, ½ mile south of the intersection with Kilby Road
- (5) WETLANDS. A map depicting all wetlands established by using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, dated January 10, 1989. Although the Federal Manual may change in the future, the City will use this referenced manual as a basis for wetlands determination.

- (6) **STREAM CORRIDORS.** A map depicting all stream corridors defined by their ordinary high-water marks.
- (7) **WILDLIFE HABITAT AREAS.** A map depicting all wildlife habitat Areas, as defined by the Wildlife Habitat Report, see Section 15-2.21-3.(B)(8).

**B ADDITIONAL INFORMATION AND STUDY REQUIREMENTS.** The Community Development Department may require the Applicant to submit the following information, as applicable:

- (1) **VISUAL ASSESSMENT.** A visual assessment of the Property from Vantage Points designated by the Community Development Department, depicting conditions before and after the proposed Development, including the proposed location, size, design, landscaping, and other visual features of the project.
- (2) **SOIL INVESTIGATION REPORT.** A soil investigation report, including but not limited to shrink-swell potential, water table elevation, general soil classification and suitability for Development, erosion potential, hazardous material analysis, and potential frost action.
- (3) **GEOTECHNICAL REPORT.** A geotechnical report, which must include the location of major geographic and geologic features, the depth of bedrock, structural features, folds, fractures, etc., and potential slide and other high-hazard Areas such as mine shafts and avalanche paths.
- (4) **ADDITIONAL SLOPE INFORMATION.** If the size of the proposed Development and visual sensitivity of the Site dictate, the Community Development Department may require the Applicant to submit a Slope/topographic map depicting contours at an interval of two feet (2').
- (5) **FIRE PROTECTION REPORT.** A fire protection report that identifies potential fire hazards, mitigation measures, access for fire protection equipment, existing and proposed fire flow capability and compliance with the State Forester's Wildlife Hazards and Residential Development Identification Classification and Regulation Report and the Summit County Wildfire Plan.
- (6) **HYDROLOGICAL REPORT.** A hydrological report, information on groundwater levels, drainage channels and systems, and base elevations in flood plains.
- (7) **WETLAND/STREAM CORRIDOR RESOURCE EVALUATION.** A Wetland/Stream Corridor resource evaluation, including a delineation of wetland and Stream Corridor boundaries and a determination of resource significance.
- (8) **WILDLIFE AND HABITAT REPORT.** A report prepared by a professional, qualified in the Areas of ecology, wildlife biology, or other relevant disciplines that describes the following:
  - (a) The ecological and wildlife use characterization of the Property explaining the species of wildlife using the Areas, the times or seasons the Area is used by those species, and the value, e.g. meaning feeding, watering,

cover, nesting, roosting, or perching, that the Area provides for such wildlife species;

- (b) the existence of wildlife movement corridors;
- (c) the existence of special habitat features, including Key nesting Sites, feeding Areas, calving or production Areas, use Areas for migrant song birds and grassland birds, fox and coyote dens, deer and elk winter concentration Areas as identified by the Utah Division of Wildlife, and Areas of high terrestrial or aquatic insect diversity.
- (d) Areas inhabited by or frequently utilized by any species identified by state or federal agencies as "threatened" or "endangered".
- (e) the general ecological functions provided by the Site and its features;
- (f) potential impacts on these existing wildlife species that would result from the proposed movement.

C SENSITIVE AREA DETERMINATION. The Community Development Department shall delineate all sensitive Areas on the parcel, including Steep Slope Areas, Ridge Lines Areas, entry corridors, wetlands and Stream Corridors, and wildlife movement corridors and habitat Areas.

D DENSITY TRANSFER. Whenever land within the Sensitive Area Overlay Zone is subject to more than one density transfer provision, the more restrictive provision shall apply.

E ANNEXATIONS. Every annexation must provide a sensitive Area analysis.

#### 15-2.21-4. SENSITIVE AREA REGULATIONS - SLOPE PROTECTION.

The following Slope protection provisions apply in the Sensitive Area Overlay Zone:

A PROHIBITIONS. No Development is allowed on or within fifty feet (50') (map distance) of Very Steep Slopes, Areas subject to landsliding, and other high-hazard geologic Areas. As used herein, an Area of Very Steep Slopes must cover a topographic Area at least twenty-five feet (25') vertically (upslope or downslope) and fifty feet (50') horizontally in any direction to be subject to this prohibition.

The Planning Commission may vary the Setback from Very Steep Slopes if the Planning Commission can make all of the following findings during the suitability review:

- (1) Varying the Setback does not create an intrusion of Buildings into the Ridge Line Area when viewed from Land Management Code designated Vantage Points (15-2-2.1(A)(4) or other Vantage Points designated by the Planning staff or Commission (15-2.21-3(B));

- (2) Building Areas in the Setback do not create excessive cut or fill Slopes; minimal retaining walls to limit disturbance and meet Grade may be required by the Planning Commission subject to sections 15-2.21-4(B), (C), and (E);
  - (3) Limits of Disturbance around any Structure within the Setback shall be limited to the minimal Area necessary to excavate and backfill the foundation. Decks and patios may not extend more than fifteen feet (15') beyond the foundation walls or the minimal excavation or backfill Area, whichever is greater;
  - (4) No additional erosion, land subsidence, or avalanche hazard is created;
  - (5) The Site plan results in an improved organization of units through vegetation avoidance, minimization of changes to the viewshed from public Areas, and reduction of Site disturbance;
  - (6) The reduction in Setback results in a reduction in overall project Density as established by the Planning Commission's suitability review; and
  - (7) In no case shall additional disturbance be allowed beyond the maximum determined in the suitability analysis. See definition of Development, LMC Chapter 15-15.
- B GRADED OR FILLED SLOPES.** The Applicant must avoid or, to the greatest extent possible, minimize proposed cuts and fills. Cutting and filling to create additional or larger Building Sites shall be kept to a minimum and avoided to the maximum extent feasible. Except for ski Slopes, Graded or filled Slopes shall be limited to a 3 to 1 Slope or less. All Graded Slopes shall be recontoured to the natural, varied contour of surrounding terrain.
- C BENCHING OR TERRACING.** Benching or terracing to provide additional or larger Building Sites is prohibited.
- D STREETS AND ROADS.** Streets and roads, proposed for Steep Slopes may not:
- (1) cross Slopes of thirty percent (30%) or greater. A short run of not more than one hundred feet (100') may be allowed to cross Slopes greater than thirty percent (30%) if the Community Development Director and the City Engineer concludes that such Streets or roads will not have significant adverse visual, environmental, or safety impacts.
  - (2) Streets and roads proposed to cross Slopes greater than ten percent (10%) are allowed, subject to the following:
    - (a) Proof that such Street and/or road will be built with minimum environmental damage and within acceptable public safety parameters; and
    - (b) Such Street and road design follows contour lines to preserve the natural character of the land, and are Screened with trees or vegetation.
  - (3) Cutting and filling is minimized and revegetated.
- E RETAINING WALLS.** The use, design, and construction of all retaining walls is subject to an Administrative Permit based upon assessment of visual impact, Compatibility with surrounding terrain and vegetation, and safety.
- F LANDSCAPING AND REVEGETATION.** An Applicant must commit to landscaping or revegetating exposed Slopes. Topsoil from any disturbed portion of a

- Steep Slope must be preserved and utilized in revegetation. Fill soil must be of a quality to support plant growth.
- G PRIVATE DEVELOPMENT DESIGN STANDARDS. All Development on Steep Slopes shall comply with the design standards set forth in LMC Chapter 15-5.
- H OPEN SPACE AND DENSITY ON DELINEATED PORTIONS OF SITES WITH STEEP SLOPES GREATER THAN FIFTEEN PERCENT (15%) BUT LESS THAN OR EQUAL TO FORTY PERCENT (40%). In addition to the specific Development regulations set forth above, the following regulations apply:
- (1) OPEN SPACE. Seventy-five percent (75%) of the Steep Slope Area must remain as Open Space.
  - (2) DEVELOPABLE LAND. Twenty-five percent (25%) of the Steep Slope Area may be Developed in accordance with the underlying zoning subject to the following conditions:
    - (a) MAXIMUM DENSITY. The maximum Density on Developable Land within a Steep Slope Area is governed by the underlying zoning and proof that the proposed density will not have a significant adverse visual or environmental affect on the community.
    - (b) LOCATION OF DEVELOPABLE LAND. The Developable Land in a Steep Slope Area is that Area with the least visual and environmental impacts. The Applicant must provide a visual and environmental analysis considering the visual impact from key Vantage Points, potential for Screening location of natural drainage channels, erosion potential, vegetation protection, Access, and similar Site design criteria. Based upon such analysis, the Community Development Department may require the Applicant to Site the Developable Land pursuant to one or more of the following techniques:
      - i. Clustered Development, or
      - ii. dispersed Development, or
      - iii. transfer of Density to the least sensitive portions of the Site. (Development shall be Sited to preserve the open meadow vistas)
    - (c) DENSITY TRANSFER. Upon proof of a sensitive Site plan, the Applicant may transfer up to twenty-five percent (25%) of the Densities from the Open Space portion of the Site to the Developable Land.
    - (d) SUITABILITY DETERMINATION. The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties. The Planning Commission shall determine that the Proposal complies with this Chapter if the Applicant proves:
      - i. The Density is Compatible with that of adjacent Properties.
      - ii. The Architectural Detail, Height, building materials, and other design features of the Development are Compatible with adjacent Properties.

- iii. The Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land.

I OPEN SPACE AND DENSITY ON VERY STEEP SLOPES.

- (1) REQUIRED OPEN SPACE. One hundred percent (100%) of the Very Steep Slope Area shall remain in Open Space. No vegetation within fifty vertical feet (50') in elevation of the Very Steep Slope Area shall be disturbed.
- (2) TRANSFER OF DENSITY. Up to ten percent (10%) of the Densities otherwise allowed in the zone may be transferred to other portions of the Site, including delineated sensitive Areas. The density transfer shall be subject to a Suitability Determination.

J MASTER PLANNED DEVELOPMENT (MPD) TDR OPEN SPACE REQUIREMENTS. The Planning Commission at master plan or subdivision approval, may reduce the TDR Open Space requirements upon a determination that:

- (1) the sensitive Area Open Space set aside is sufficient for the Development, and
- (2) sufficient neighborhood and TDR Open Space is set aside within the Developable Land to serve residents of the Development.
- (3) in no case shall less than twenty percent (20%) of the Developable Land be set aside for TDR Open Space.

K DENSITY BONUSES. In addition to the Density transfers permitted pursuant to this Section, the Community Development Department may recommend that the Planning Commission grant up to a twenty percent (20%) increase in transferrable densities if the Applicant:

- (1) offers to preserve Open Space to ensure the long-term protection of a significant environmentally or visually sensitive Area in a manner approved by the City; or
- (2) provides public Access as shown on the Trails Master Plan; or
- (3) restores degraded wetlands or environmental Areas on the Site or makes other significant environmental improvements.

*(Chapter amended by Ord. No. 05-40)*

15-2.21-5. SENSITIVE AREA REGULATIONS - RIDGE LINE AREA PROTECTION.

- A INTENT. The intent of these provisions is to ensure that Development near Ridge Line Areas blends with the natural contour of these land forms. Significant Ridge Line Areas should be retained in a natural state, and Development should be Sited in such a manner so as not to create a silhouette against the skyline or mountain backdrop as viewed from designated Vantage Points.

- B** MINIMUM SETBACK. No Structure or other appurtenant device, including mechanical equipment may visually intrude on the Ridge Line Area from any of the designated vantage points as depicted herein.
- C** OPEN SPACE AND DENSITY. The following regulations apply to all Ridge Line Areas in the Sensitive Overlay:
- (1) OPEN SPACE. One hundred percent (100%) of the Ridge Line Area shall remain in Open Space.
  - (2) DENSITY TRANSFER. The Planning Commission may transfer up to twenty-five percent (25%) of the Densities otherwise allowed in the Ridge Line Area to Developable Land. The Density transfer shall be subject to a suitability determination as set forth below:
    - (a) SUITABILITY DETERMINATION. The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties. The Planning Commission shall determine that the Proposal complies with this Chapter if the Applicant proves:
      - i. The Density is Compatible with that of adjacent Properties.
      - ii. The Architectural Detail, Height, materials, and other design features of the Development in the receiving Area are Compatible with adjacent Properties.
      - iii. The Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land.
- D** DENSITY BONUSES. In addition to the Density transfers permitted pursuant to this Section, at MPD or subdivision review. The Community Development Department may recommend that the Planning Commission grant up to a twenty percent (20%) increase in transferrable Densities if the Applicant:
- (1) offers to preserve open space to ensure the long-term protection of a significant environmentally or visually sensitive Areas in a manner approved by the City; or
  - (2) provides public Access for trails, as shown on the Trails Master Plan; or
  - (3) restores degraded wetlands or environmental Areas on the Site or makes other significant environmental improvements.

#### 15-2.21-6. SENSITIVE AREA REGULATIONS - WETLANDS AND STREAM PROTECTION.

- A** INTENT. The following requirements and standards have been developed to promote, preserve, and enhance wetlands and Stream Corridors and to protect them from adverse effects and potentially irreversible impacts.
- B** JURISDICTION. All Significant Wetlands and Stream Corridors are regulated as provided below.

- C PROHIBITED ACTIVITIES. No person shall disturb, remove, fill, dredge, clear, destroy or alter any Area, including vegetation, surface disturbance within Significant Wetlands and significant Stream Corridors and their respective Setbacks, except as may be expressly allowed herein.
- D BOUNDARY DELINEATIONS. The Applicant must commission a Park City Municipal Corporation Wetland and Stream Corridor delineation by a qualified professional, approved by the Community Development Director.
- (1) Wetlands shall be established using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, dated January 10, 1989.
  - (2) Stream Corridors shall be delineated at the Ordinary High Water Mark as defined in Section 15-15.
- E DETERMINATION OF SIGNIFICANCE.
- (1) WETLAND CRITERIA. A wetland delineated pursuant to the 1989 Federal Manual is significant if it meets the following criteria:
    - (a) SIZE. All wetlands that occupy a surface Area greater than 1/10 acre or are associated with permanent surface water.
    - (b) LOCATION. All wetlands that are adjacent to, or contiguous with, a Stream Corridor.
  - (2) STREAM CORRIDOR. All Stream Corridors are significant. Stream Corridors are not irrigation ditches.
- F SETBACKS. The following Setbacks are required:
- (1) Setbacks from wetlands shall extend a minimum of fifty feet (50') outward from the delineated wetland edge.
  - (2) Setbacks from Stream Corridors shall extend a minimum of fifty feet (50') outward from the Ordinary High Water Mark.
  - (3) Setbacks from irrigation ditches shall extend a minimum of twenty feet (20') from the Ordinary High Water Mark.
- G RUNOFF CONTROL. All projects adjacent to wetlands must apply Best Management Practices for both temporary and permanent runoff control to minimize sediment and other contaminants.
- H HABITAT RESTORATION PROJECTS. The Community Development Department may approve wetland and Stream Corridor restoration and enhancement projects if the project plan has been reviewed by a qualified professional, approved by the appropriate state and federal agencies, and performed under the direct supervision of a Qualified Professional.
- I LMC MASTER PLANNED DEVELOPMENT (MPD) OPEN SPACE REQUIREMENTS. The Planning Commission may reduce the sixty percent (60%)

MPD Open Space requirement in the Developable Land if the Planning Commission determines that:

- (1) Open Space set aside is sufficient to provide adequate natural Open Space for the entire Development;
- (2) sufficient TDR Open Space remains within the Developable Land to serve residents of the Development.
- (3) At least twenty percent (20%) of the Developable Land is TDR Open Space.

#### 15-2.21-7. WILDFIRE REGULATIONS.

The following table shall be used to determine exemption from the wood roof prohibition. The rating column applies to each of the categories of Slope, aspect, fire department response time, and vegetation.

Wildfire Hazard Severity Scale:

| RATING | SLOPE    | VEGETATION                |
|--------|----------|---------------------------|
| 1      | - 10     | Pinion/Juniper            |
| 2      | 10.1-20% | Grass/Sagebrush           |
| 3      | 20%      | Mountain brush/ softwoods |

Prohibition/Exemption Scale:

| RATING | WOOD ROOF PROHIBITION     |
|--------|---------------------------|
| = 11   | Wood roofs are allowed    |
| = 12   | Wood roofs are prohibited |

STEP 1: Find the rating for Slope and vegetation from the Wildfire Hazard Severity Scale table and choose whichever rating is highest.

STEP 2: Add 9 to that rating, this is the weather factor for Park City. The result is the total rating.

STEP 3: Find the total rating in the Prohibition/Exemption Scale above to determine whether wood roofs may be allowed on the specific Lot.

#### 15-2.21-8. DEVELOPMENT APPROVALS FOR SKI AREA CONSTRUCTION AND EXPANSION.

- A **CONSULTATION.** The Developer must submit a plan detailing the location, alignment and scope of the undertaking. If the Community Development Director determines that the project may have significant visual and environmental impacts, a consultation meeting will be scheduled. No Development shall occur until after the consultation meeting and any required approvals have been granted.

- B **MITIGATION.** The Community Development Director must review the proposed project and after consultation may request the Developer to prepare alternatives for consideration and to prepare a mitigation plan that modifies the project to mitigate the environmental and visual impact of the project. To the Maximum Extent Feasible, the Developer must design the ski facilities to preserve the natural character of the sensitive Area. The mitigation plan must also address revegetation disturbed Areas and temporary and permanent erosion control measures.

15-2.21-9. WILDLIFE AND WILDLIFE HABITAT PROTECTION.

- A **INTENT.** The following requirements and standards have been developed to promote, preserve, and enhance wildlife and wildlife habitat Areas in and around Park City, and to protect them from adverse effects and potentially irreversible impacts.
- B **JURISDICTION.** All Sensitive or Specially Valued Species, including all species identified by state or federal agencies as "threatened" or "endangered" are regulated as provided below:
- (1) **PROTECTION OF WILDLIFE HABITAT AND ECOLOGICAL CHARACTER.**
- (a) **CONSTRUCTION TIMING.** Construction shall be organized and timed to minimize disturbance of Sensitive or Specially Valued Species occupying or using on-Site and adjacent natural Areas.
- (b) **SENSITIVE AND SPECIALLY VALUED SPECIES.** If the Development Site contains or is within five hundred feet (500') of a natural Area or habitat Area, and the wildlife and habitat report show the existence of Sensitive or Specially Valued Species, the Development plans shall include provisions to ensure that any habitat contained in any such natural Area shall not be disturbed or diminished, and to the Maximum Extent Feasible, such habitat shall be enhanced.
- (c) **CONNECTIONS.** If the Development Site contains existing natural Areas that connect to other Off-Site natural Areas, to the Maximum Extent Feasible the Development plan shall preserve such natural Area connections. If natural Areas lie adjacent to the Development Site, but such natural Areas are not presently connected across the Development Site, then the Development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between natural Areas and to enhance the opportunity for the establishment of new connections for movement of wildlife.
- (d) **WILDLIFE CONFLICTS.** If wildlife that may create conflicts for future occupants of the Development are known to exist in Areas adjacent to or on the Development Site, then the Development plan must include provisions to minimize these conflicts to the extent reasonably feasible.

