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ARTICLE I
AUTHORITY AND ENACTMENT CLAUSE

The Council of the Village of Sugar Mountain, North Carolina, in pursuance of the authority granted by the General Statutes of North Carolina, particularly Chapter 160-A, Article 19, Part 3, and the authority vested in the Village of Sugar Mountain by its charter, hereby ordains and enacts into law the following Articles and Sections.

CHAPTER I ZONING

ARTICLE II SHORT TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of the Village of Sugar Mountain, North Carolina hereinafter referred to, as the Zoning Ordinance or the Ordinance.

**ARTICLE III
APPLICATION**

SECTION 300.

JURISDICTION

The provisions of the Ordinance shall apply within the corporate limits of the Village of Sugar Mountain, as established on the map entitled “Official Zoning Map, Village of Sugar Mountain, North Carolina.

SECTION 301. EXTRATERRITORIAL JURISDICTION BOUNDARIES ESTABLISHED

An official map of the Village of Sugar Mountain entitled “Village of Sugar Mountain Extraterritorial Jurisdiction: and dated the 16th day of May, 2006, is hereby adopted showing the extraterritorial jurisdiction area boundary of the Village of Sugar Mountain. Such map shall be maintained in the manner provided for in North Carolina General Statutes 160A-22 and shall be recorded in the Office of the Register of Deeds of Avery County.

301.1 Application and Enforcement of Ordinances in the Extraterritorial Area

The following ordinances contained within the Code of Ordinances of the Village of Sugar Mountain shall be applicable in every aspect within the extraterritorial area in the same manner as each is now applicable within the corporate limits of the Village of Sugar Mountain and the designated enforcement officer shall enforce all of the provisions of these ordinances within the extraterritorial area in the same manner as the officer is now authorized to enforce these ordinances within the corporate limits:

The Zoning Ordinance

The Subdivision Ordinance

Chapter 4. Abandoned and Junked Motor Vehicles

Chapter 5. An Ordinance to Establish a Planning Board for the Village of Sugar Mountain

Chapter 8. Sign Ordinance

Chapter 9. An Ordinance Regulating the Placement of Political Signs within the Village of Sugar Mountain

301.2 Effective Date

This ordinance shall become effective upon its adoption date of May 16, 2006.

ARTICLE IV

(Deleted in its Entirety on 5-6-1986)

ARTICLE V **APPLICATION OF REGULATIONS**

(Amended in its Entirety on 1-7-1986)

SECTION 501. **USE**

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this ordinance or amendments thereto, for the district in which it is located.

SECTION 502. **HEIGHT AND DENSITY**

No building or structure shall hereafter be erected, constructed, reconstructed, or otherwise structurally altered so as to exceed the height limit, or to exceed the density regulations of this ordinance for the district in which it is located.

No structure shall have a vertical height in excess of 35 feet as measured from the highest point of the original natural grade of the land on which the building sits to the highest point of the structure. The highest point of the structure shall be the highest point.

- a.) Of the peak of the highest roof; or
- b.) Of the finished roof surface in the case of flat roofs; or
- c.) Of railings, decking, or other such attachments which may be affixed to A and/or B above.

Chimneys, vents and T.V. antennas shall not be included in the measurement of the highest point of the structure.

The highest point of the original natural grade of the land shall be determined by the Zoning Administrator or his designee prior to the commencement of excavation or any other alteration of the original natural layout of the land on which the structure is to be built.

SECTION 503. **LOT SIZE**

The lot sizes established in the zoning districts of this ordinance are the minimum lot areas permitted in the district.

SECTION 504. **YARD USE LIMITATION**

No part of any yard or open space required by this ordinance shall be included as part of a yard or open space required for any other building or use.

CHAPTER I ZONING

SECTION 505. ONE PRINCIPAL BUILDING ON ANY LOT

Only one principal building and its customary accessory buildings or accessory uses may hereafter be erected or constructed on any lot, except as authorized in this ordinance.

SECTION 506. ACCESS TO PUBLIC STREET

Reserved for future purposes.

SECTION 507. MINIMUM DWELLING AREA REQUIREMENTS

No dwelling unit shall be erected or altered so as to contain less than minimum dwelling area as so specified by the provisions of this ordinance for the district in which it is located. (*Amended 1-2-1990*)

SECTION 508. FENCES

Fences, as defined in Section 1401, shall be constructed to a height not to exceed four (4) feet as measured from the highest ground elevation to the uppermost part of the fence and shall be constructed of stone, wood, or chain link. There shall be no chain link fencing in the front yard of any residence. No wire type fencing other than chain link shall be used. Chain link fences shall not exceed the front side of a residence. Chain link fences shall use tubular type posts for construction. No T-type or similar posts allowed. A chain link fence that is visible to road shall have appropriate landscaping that, in four (4) years time, would conceal said fence. Front yard fencing shall be limited to natural materials such as wooden split rail fencing, stone columns with two (2) wooden split rails, or stone-faced walls. There shall be no stucco-faced walls or non-architectural cement blocks of any kind permissible. Utility sites such as wells and pump stations etc. in which the State of North Carolina mandate standards for fencing are exempt. (*Amended 9-9-2009*)

SECTION 509. YARD ENCROACHMENTS

Except as expressly permitted, no encroachments or accessory building shall be permitted in any required yard area. The required yard area shall remain open, unoccupied and unobstructed by buildings or structures from the ground to the sky. For the purposes of this ordinance, fences as defined in Chapter 1, Article 14, Section 1404, eaves extending less than thirty-six (36) inches from the building wall, uncovered stairways, and exterior walkways which are uncovered are no greater than four (4) feet in width shall not be considered encroachments into required yard areas. (*Amended 3-19-1991; 5-16-2000*)

SECTION 510. FOUNDATIONS

Any and all detached structures larger than 12'x15' in size shall be required to be placed on and anchored to a permanent masonry foundation. The material must be covered in accordance with Chapter 1, Article 9, Section 901.1 of this ordinance. All open spaces between structure and foundation must be fully enclosed. (*Approved 2-17-1998*)

ARTICLE VI NON-CONFORMING USES

(Entire Article Amended 5-6-1986)

SECTION 600. NON-CONFORMING USES

Any parcel of land, use of land, building or structure lawfully existing at the time of the adoption of this ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following provisions:

SECTION 601. NON-CONFORMING VACANT LOTS

This category of non-conformance consists of vacant lots for which plats or deeds have been recorded in the Register of Deeds office of Avery County, which at the time of the adoption of this ordinance fail to comply with the minimum area or dimensional requirements of the districts in which they are located. Any such non-conforming lot may be used for any of the uses permitted in the district in which it is located provided that all dimensional requirements for the proposed uses and structured can be met. When said non-conforming lot meets all dimensional requirements, the Zoning Administrator is authorized to issue a Certificate of Zoning Compliance. Where one or more dimensional requirements cannot be met, the Board of Adjustment may approve as a variance such dimensions as will conform as closely as possible to the required dimensions. *(Amended 3-19-1991)*

SECTION 602. RECOMBINATION OF NON-CONFORMING LOTS

Whenever this ordinance creates a non-conforming lot and the owner, or his successor in title thereto, of the non-conforming lot also owns land adjacent to the non-conforming lot and a portion of the adjacent land can be combined with the non-conforming lot to create a conforming lot (without creating other non-conformities), the owner of the non-conforming lot shall, before beginning any construction thereon, so combine the non-conforming lot and the adjacent land, and where necessary, re-divide the lots comprising the adjacent land, to create a conforming lot.

SECTION 603. NON-CONFORMING OCCUPIED LOTS

This category of non-conformance consists of lots, occupied by buildings or structures at the time of adoption of this ordinance that fail to comply with the minimum requirements for area, width, yard and setbacks for the district in which they are located. These lots may continue to be used, provided the non-conformity may not be increased.

SECTION 604. NON-CONFORMING OPEN USES OF LAND

This category of non-conformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental

and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:

- 1.) When a non-conforming open use of land has been changed to a conforming use, it shall not thereafter revert to any non-conforming use.
- 2.) Non-conforming open use of land shall be changed only to conforming uses.
- 3.) A non-conforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became non-conforming.
- 4.) When any non-conforming open use of land is discontinued for a period in excess of one hundred eighty (180) days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

SECTION 605. NON-CONFORMING USES OF STRUCTURES

This category of non-conformance consists of buildings or structures used at the time of enactment of this ordinance for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- 1.) A Non-conforming use shall not be changed to another non-conforming use.
- 2.) When a non-conforming use has been changed to a conforming use, it shall not thereafter revert to any non-conforming use.
- 3.) A non-conforming use may not be extended or enlarged, nor shall a non-conforming structure be altered except as follows:
 - (a.) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
 - (b.) Maintenance and repair necessary to keep a non-conforming structure in sound condition are permissible.
 - (c.) Expansion of a non-conforming use of a building or structure into portions of the structure which, at the time the use became non-conforming, were already erected and arranged or designed for such non-conforming use is permissible.
 - (d.) In cases where the enlargement or extension shall result in bringing the structure up to the minimum square footage requirement for the district in which it is located, or otherwise change the structure to a conforming use.

- 4.) When any non-conforming use of a building or structure is discontinued for a period in excess of one hundred (180) days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the structure, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

SECTION 606.

NON-CONFORMING RESIDENCES

Existing single family or multi-family residences located in districts other than residential districts may be enlarged, altered, extended, rebuilt, repaired, or structurally altered provided that no additional dwelling units and/or residences result there from. However, any such enlargement, alteration, extension, rebuilding, repair or structural alteration shall comply with applicable requirements of the R-2 Residential District.

SECTION 607.

RECONSTRUCTION OF NON-CONFORMING STRUCTURES

(Entire Section Amended 3-19-1991; Approved 2-17-1998)

Any non-conforming building or structure which has been damaged by fire, wind, explosion, flood or other causes, may be reconstructed or repaired and used as before provided:

- 1.) The repairs or reconstruction are initiated within six months and are completed within one year of such damage (except that an extension may be approved by the Zoning Administrator provided reasonable progress is being made).
- 2.) The total amount of space devoted to a non-conforming use may not be increased.
- 3.) The building or structure has not been declared by the Zoning Administrator to have been damaged to such an extent that the repair costs will exceed sixty (60) percent of the fair market value of the damaged building or structure immediately before the damage was incurred. If a building or structure is damaged by fire, wind, explosion, flood or other cause to such a degree that repair costs will exceed sixty (60) percent of fair market value immediately before the damage was incurred, the non-conforming building may be reconstructed or repaired and used as before provided that the structure may not contain more area, or in any way increase the non-conformity of the structure or the lot on which it is located.

CHAPTER I ZONING

ARTICLE VII **ESTABLISHMENT OF ZONING DISTRICTS, MAP AND DISTRICT REGULATIONS**

(Entire Article Amended 5-6-1986)

SECTION 700.

USE DISTRICTS

For the purpose of this ordinance, the zoning districts of Sugar Mountain are hereby created and are designated as follows:

- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- R-3 Multi-Family Residential District
- R-4 Residential Estate District
- R-C Resort Commercial District
- C-B Commercial Business District
- O-B Office Business District
- M-U Multiple Use District *(Added 7-15-2008)*

The Official Zoning Map of the Village of Sugar Mountain, adopted by the Village Council, shall be divided into some or all of the above described zoning districts.

It is the intent of this ordinance that any use or class of use not specifically permitted in a district set forth above shall be prohibited in that district.

SECTION 701.

ESTABLISHMENT OF DISTRICT BOUNDARIES

The boundaries of the zoning districts created in this article are hereby established as shown on the Official Zoning Map of the Village of Sugar Mountain.

SECTION 702.

ESTABLISHMENT OF THE OFFICIAL ZONING MAP

A zoning map entitled the "Official Zoning Map of the Village of Sugar Mountain, North Carolina," clearly setting forth approved use districts and their respective boundaries is hereby made a part of this ordinance and shall be maintained in the office of the Zoning Administrator. This map shall be available for inspection by interested persons during the normal business hours of the Village of Sugar Mountain. It shall be the responsibility of the Zoning Administrator to maintain the said map and designate any changes thereto as they may be made.

SECTION 703.

RULES GOVERNING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following shall apply:

- 703.1 Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers or other bodies of water, shall be construed to follow such lines.
- 703.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 703.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- 703.4 Where a district boundary line divides a lot of single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than thirty-five (35) feet beyond the district boundary line.
- 703.5 Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Chapter 1, Article VII, Section 793, § 703.1 through 703.4, the Board of Adjustment shall interpret the district boundaries.

SECTION 704.

R-1 LOW DENSITY RESIDENTIAL DISTRICT

- 704.1 **Intent.** The R-1 Low Density Residential District is established as a district the principal use of land is for single family dwellings. It is the intention of these regulations to discourage any use which would be detrimental to the low density, single family residential nature of the areas included within the district as well as to discourage any uses not harmonious with the existing unique architectural styling and overall character of the resort area.
- 704.2 **Permitted Uses.** Within the R-1 Low Density Residential District, a building or land shall be used only for the following purposes:
 - (1.) Single family dwelling, excluding mobile homes.
 - (2.) Municipal uses, functions, and facilities.
 - (3.) Customary accessory buildings, structures and uses, provided the building and structures are compatible with the architectural style of the principle

structure and conform with the color and materials standards required by the ordinance. Accessory buildings and structures shall be located in a side or rear yard and shall conform with the setback requirements. Dish antennas are permitted as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907. Consistent with the definition of an accessory building set forth in this ordinance, use of an accessory building as part of a dwelling shall be allowed, but no rental or lease of accessory buildings shall be allowed unless such accessory building is rented or leased as a whole with the main structure of the property. *(Amended 9.20.2018)*

704.3 **Special Use Permits.** Within the R-1 Low Density Residential District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with Article XII of this ordinance:

- (1.) Customary incidental home occupation uses.
- (2.) Private utility structures and facilities, specifically water, sewer and electric. *(Amended 3-19-1991)*

704.4 **Dimensional Requirements.** Dimensional requirements for the R-1 Low Density Residential District are:

Minimum Lot Area in Square Feet.....43,560 (one acre)

Minimum Dwelling Area Per Single-Family.....1,400

Detached Dwelling Unit in Square Feet *(Amended 7-11-1996)*

Density – Dwelling Units Per Acre.....1

Minimum Yard Requirements (in feet)*

Front..... 30

Side.....20

Rear..... 25

Maximum Height (in feet).....35

*Setbacks on any adjacent public roadside frontage shall be thirty (30) feet.

SECTION 705.

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

705.1 **Intent.**

The R-2 Medium Density Residential District is established as a district in which the principle use of land is for single family dwellings. It is the intention of these regulations to discourage any use which would be detrimental to the medium density, single family residential nature of the areas included within the district as well as to

discourage any uses not harmonious with the existing unique architectural styling and overall character of the resort area.

705.2 **Permitted Uses.**

Within the R-2 Medium Density Residential District, a building or land shall be used only for the following purposes:

- (1.) Single family dwelling, excluding mobile homes.
- (2.) Municipal uses, functions, and facilities.
- (3.) Customary accessory buildings, structures and uses, provided the buildings and structures are compatible with the architectural style if the principle structure and conform with the color and materials standards required by the ordinance. Accessory buildings and structures shall be located in a side or rear yard and shall conform with the setback requirements. Dish antennas are permitted as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907. Consistent with the definition of an accessory building set forth in this ordinance, use of an accessory building as part of a dwelling shall be allowed, but no rental or lease of accessory buildings shall be allowed unless such accessory building is rented or leased as a whole with the main structure of the property. *(Amended 9.20.2018) (Amended 3-19-1991; 10-7-1997)*

705.3 **Special Use Permits.**

Within the R-2 Medium Density Residential District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with Article XII of this ordinance:

- (1.) Customary incidental home occupation uses.
- (2.) Private utility structures and facilities, specifically water, sewer and electric. *(Amended 3-19-1991)*

705.4 **Dimensional Requirements.**

Dimensional requirements for the R-2 Medium Density Residential District are:

Minimum Lot Area in Square Feet 17,424..... (.4 acre)

Minimum Dwelling Area Per Single Family..... 1,400

Detached Dwelling Unit in Square Feet *(Amended 7-11-1996)*

Density – Dwelling Units Per Acre..... 2.5

Minimum Yard Requirements (in feet)*

Front..... 30

Side..... 15

Rear..... 25

Maximum Height (in feet).....35

*Setbacks on any adjacent public roadside frontage shall be thirty (30) feet.

SECTION 706.

R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

706.1 Intent.

The R-3 Multi-Family Residential District is established as a district in which the primary use of the land is for multi-family residential purposes. Because of the potentially adverse impact of multi-family projects on the predominantly single family resort setting of Sugar Mountain, all multi-family projects which contain five (5) or more dwelling units shall be considered a residential planned unit development (RPUD), and shall be permitted subject to the special use permit review and approval under the conditions specified in this ordinance.

706.2 Permitted Uses.

Within the R-3 Multi-Family Residential District, a building or land shall be used only for the following purposes:

- (1.) Single family dwellings, excluding mobile homes.
- (2.) Multi-Family dwellings, not exceeding four (4) dwelling units.
- (3.) Customary accessory buildings, structures and uses, provided the buildings and structures are compatible with the architectural style of the principle structure and conform with the color and materials standards required by the ordinance. Accessory buildings and structures shall be located in a side or rear yard and shall conform with the setback requirements. Dish antennas are permitted as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907. (*Amended 3-19-1991; 10-7-1997*)
- (4.) Municipal uses, functions, and facilities.

706.3 Special Use Permits. Within the R-3 Multi-Family Residential District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with the provisions in this section and Article XII of this ordinance:

- (1.) Customary incidental home occupation uses.
- (2.) Residential Planned Unit Developments which include all multi-family attached or detached units containing more than four (4) dwelling units, and developed on a lot or tract of lots in single ownership, may be issued a special

use permit subject to the conditions and review process in Article VIII, Section 801, and Article XII, Section 1205.

- (3.) Private utility structures and facilities, specifically water, sewer and electric.

706.4 **Dimensional Requirements.**

Dimensional requirements of the R-3 Multi-Family Residential District are:

Minimum Lot Area in Square Feet..... 43,560. (one acre)

Minimum Dwelling Area Per Single-Family..... 1,400
Detached Dwelling Unit in Square Feet
(Amended 7-11-1996)

Minimum Dwelling Area Per Dwelling Unit..... 800
Multi-Family Building in Square Feet (Amended 7-11-1996)

Density – Dwelling Units Per Acre4*

Minimum Yard Requirements (in feet)
Front30
Side20
Rear.....25
Maximum Height (in feet)..... 35

*The density of a Residential Planned Unit Development may be increased to a maximum of eight units per acre subject to the conditions and standards in Article VIII and Article XII of this ordinance.

SECTION 707.

R-4 RESIDENTIAL ESTATE DISTRICT

707.1 **Intent.**

The R-4 Residential Estate District is established as a district in which the principle use of the land is for single family dwellings on large lots. These districts are established to preserve and protect the natural environment of areas which have soils or slopes which necessitates larger lots for onsite water and/or septic systems, areas where street access and other municipal services are limited, or areas where the existing or proposed development is designated for very low density residential uses.

707.2 **Permitted Uses.**

Within the R-4 Residential Estate District, a building or land shall be used only for the following purposes:

- (1.) Single family dwellings, excluding mobile homes.
- (2.) Municipal uses, functions, and facilities.
- (3.) Customary accessory buildings, structures and uses, provided the building and structures are compatible with the architectural style of the principle structure and conform with the color and materials standards required by the ordinance. Accessory buildings and structures shall be located in a side or rear yard and shall conform with the setback requirements. Dish antennas are permitted as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907. *(Amended 3-19-1991; 10-7-1997)*

707.3

Special Use Permits.

Within the R-4 Residential Estate District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with Article XII of this ordinance:

- (1.) Private utility structures and facilities, specifically water, sewer and electric. *(Amended 3-19-1991)*

707.4

Dimensional Requirements.

Dimensional requirements of the R-4 Residential Estate District are:

Minimum Lot Area in Square Feet..... 130,680 (3 acres)

Minimum Dwelling Area Per Single-Family..... 1,400
Detached Dwelling Unit in Square Feet *(Amended 7-11-1996)*

Density – Dwelling Units Per Acre..... (.33)
(1 Unit per 3 acres)

Minimum Yard Requirements (in feet)

Front..... 60
Side..... 50
Rear..... 60
Maximum Height (in feet)..... 35

SECTION 708.

R-C RESORT COMMERCIAL DISTRICT

708.1

Intent.

The R-C Resort Commercial District is established as a district in which the principle uses of land are for commercial recreational and residential purposes. The economic and aesthetic health and general welfare of the Village of Sugar Mountain are reliant upon the establishment and continuing operation of the ski slopes and lifts, golf

courses, tennis courts, swimming pools, lodging and related facilities, and supporting public, semi-public, and private recreational and residential uses.

708.2 **Permitted Uses.**

Within the R-C Resort Commercial District, a building or land shall be used only for the following purposes:

- (1.) Ski slopes and lifts including supporting maintenance buildings, equipment, and ski facilities offering food, beverages, and sales or rental of ski equipment.
- (2.) Golf courses, including pro shops offering food and beverages and selling or renting sporting equipment, and supporting maintenance buildings.
- (3.) Tennis courts and swimming pools, supporting maintenance buildings and equipment, and other accessory structures offering food and beverage service, and sales or rental of sports equipment.
- (4.) Municipal uses, facilities and functions.
- (5.) Dish antennas as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907. (*Amended 5-3-1988*)
- (6.) Spa and recreational club facilities.
- (7.) Lodging facilities. (*Amended 10-15-2001*)

708.3 **Special Use Permits.**

Within the R-C Resort Commercial District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with the Article XII of this ordinance:

- (1.) Any public, semi-public, or private recreational use not specifically listed in Chapter 1, Article VII, Section 708, § 708.2 above.
- (2.) Private utility structures and facilities, specifically water, sewer and electric.
- (3.) Commercial Planned Unit Developments subject to the provisions in Article VIII, Section 802, and Article XII, Section 1205. (*Added 5-5-1987; Amended 2-2-1988*)
- (4.) Residential Planned Unit Developments subject to the provisions in Article VIII, Section 801, and Article XII, Section 1205.

708.4 **Dimensional Requirements.**

Dimensional requirements of the R-C Resort Commercial District are:

Minimum Lot Area in Square Feet.....174,240 (4 acres)

Density – Dwelling Units per Acre.....8 units

Minimum Lot Width at Building Line (in feet).....None

Minimum Yard* Requirements (in feet)

Front..... 30

Side..... 20

Rear..... 25

Maximum Height (in feet)..... 35

*Minimum yard requirements are required for any structures permitted in the district.
(Amended 10-16-2001)

SECTION 709.

C-B COMMERCIAL BUSINESS DISTRICT

709.1 Intent.

The C-B Commercial Business District is established as a district in which the principle use of land is for lodging, retail stores, and services to the consumer. It is the intention of these regulations to encourage the development and orderly expansion of commercial activities conducive to a resort setting and compatible to the residential resort environment so as to enhance the quality of life and general resort character of the community while preserving a unique existing character of the Village and its environs.

709.2 Permitted Uses.

Within the C-B Commercial Business District, a building or land shall be used only for the following purposes:

- (1.) Retail business, consumer businesses, public service companies, recreational businesses, public or private offices, public utility buildings, unless otherwise restricted in the section but excluding those businesses requiring open storage of vehicles, motorized equipment, wrecked vehicles, inoperable vehicles, discarded tires, auto parts, machinery and construction materials, and manufacturing industries employing ten or more persons. (Amended 3-19-1991)
- (2.) Business, Professional, and Medical Offices. (Amended 3-19-1991)
- (3.) Financial institutions. (Amended 3-19-1991)
- (4.) Municipal uses, facilities and functions. (Amended 3-19-1991)

- (5.) Customary accessory buildings, structures and uses provided the buildings and structures are compatible with the architectural style and materials used in the principle building and adjacent properties. Dish antennas are permitted as an accessory use, subject to the provision of Chapter 1, Article IX, Section 907. *(Amended 3-19-1991)*

709.3

Special Use Permits.

Within the C-B Commercial Business District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with Article XII of this ordinance:

- (1.) Private utility structures and facilities, specifically water, sewer and electric.
- (2.) Commercial Planned Unit Developments subject to the provisions in Chapter 1, Article VIII, Section 802, and Article XII, Section 1205. *(Added 5-5-1987; Amended 2-2-1988)*
- (3.) Churches and places of worship including accessory structures, off-street parking, and private cemeteries that are located on the same or adjoining premises and are owned and maintained by the adjacent church or place of worship. *(Added 11-19-2002)*

709.4

Dimensional Requirements.

Dimensional Requirements of the C-B Commercial Business District are:

Minimum Lot Area in Square Feet..... 43,560 (one acre)

Density – Dwelling Units Per Acre..... NOT APPLICABLE

Minimum Lot Width at Building Line (in feet)150

Minimum Yard Requirements (in feet)

Front.....	35
Side	25
Rear.....	40

Maximum Height (in feet) 35

Structures in the C-B district shall not cover more than 30% of the total lot area.

SECTION 710.

O-B OFFICE BUSINESS DISTRICT

(Section deleted in its entirety but reserved for future purposes on 10-3-1989)

SECTION 711.

M-U MULTIPLE USE DISTRICT

(Adopted 7-12-2006)

711.1 Intent.

The M-U Multiple Use District is established as a district in which the primary use of the land is primarily for single and multi-family residential and agricultural purposes, due to the potentially adverse impact of multi-family projects. All multi-family projects which contain five (5) or more dwelling units shall be considered a Residential Planned Unit Development (RPUD), or a subdivision, and businesses listed below shall be permitted subject to the Special Use Permit review and approval under the conditions specified in this ordinance.

711.2 Permitted Uses.

Within the M-U Multiple Use District a building or land shall be used only for the following purposes:

- (1.) Single-family dwellings, including mobile homes.
- (2.) Multi-family dwellings, not exceeding four (4) dwelling units.
- (3.) Customary accessory buildings, structures and uses, provided the buildings and structures are compatible with the architectural style of the principle structure and conform with the color and materials standards required by the ordinance. Accessory buildings and structures shall be located in a side or rear yard and shall conform with the setback requirements. Dish antennas are permitted as an accessory use, subject to the provisions in Chapter 1, Article IX, Section 907.

711.3 Special Use Permits.

Within the M-U Multiple-Use District, the following uses are permitted subject to the issuance of a special use permit from the Board of Adjustment in accordance with the provisions in this section and Article XII of this ordinance:

- (1.) Customary home occupation uses.
- (2.) Residential Planned Unit Developments which include all multi-family attached or detached units containing five (5) or more dwelling units, and developed on a lot or tract of lots in single ownership, may be issued a special use permit subject to the conditions and review process in Chapter 1, Article VIII, Section 801, and Article XII, Section 1205.
- (3.) Businesses – Retail businesses, consumer service businesses, public service companies, recreational businesses, public or private offices, public utility

buildings, unless otherwise restricted in the section but excluding those businesses requiring open storage of vehicles, motorized equipment, wrecked vehicles, inoperable vehicles, discarded tires, auto parts, machinery and construction materials, and manufacturing industries employing ten or more persons unless an approved Auto Body Shop or Auto Mechanic Shop. Business, Professional, and Medical Offices. Financial Institutions.

- (4.) Private utility structures and facilities, specifically water, sewer and electric.

711.4 **Dimensional Requirements.**

Dimensional requirements of the M-U Multi-Family Residential District are:

Minimum Lot Area in Square Feet.....17,424 (.4 acres)

Minimum Single Family Dwelling (including mobile home).....720 sq. ft.

Minimum Dwelling Area per Dwelling Unit
In a Multi-Family Building in Square feet.....800

Density – Dwelling Units per Acre.....4*

Minimum Yard Requirements (in feet)
Front..... 30
Side 20
Rear..... 25

Maximum Height (in feet) 35

*The density of a Residential Planned Unit Development may be increased to a maximum of eight units per acre subject to the conditions and standards in Chapter 1, Article VIII and Article XII of this ordinance.

ARTICLE VIII **SPECIAL USE PERMIT STANDARDS**

(Added 5-6-1986) (Entire Article Amended 1-5-1988)

SECTION 800. **SPECIAL USE PERMIT STANDARDS**

This article is hereby established to provide specific standards and reviews for certain uses requiring special use permits in this ordinance. The standards and review procedures required in this section are in addition to the basic requirements in Chapter 1, Article XII, Section 1205.

SECTION 801. **RESIDENTIAL PLANNED UNIT DEVELOPMENTS (RPUD)**

801.1 **Intent and Purpose.**

The Residential Planned Unit Development is established to provide medium density residential development in areas of Sugar Mountain's jurisdiction which are suited for some increased population and development densities. It is the intent and purpose of this section that the Residential Planned Unit Development compatibly blend with the existing character of Sugar Mountain in areas where existing utilities and community services are available and sufficient to accommodate an increased population density. The development as a special use provides for flexibility by encouraging a diversity in housing and controlled site plan review and approval process by the Board of Adjustment. The Board of Adjustment shall have the discretion to determine whether a proposed development is compatible with the character of the neighborhood in which it is located, and that certain reasonable conditions and modifications may be required by the Board of Adjustment.

801.2 **Location.**

A Residential Planned Unit Development may be issued a Special Use Permit in the R-3 Multi-Family Residential District.

801.3 **Permitted Uses.**

The following uses are permitted in a Residential Planned Unit Development:

- (1.) Single-family dwellings, excluding mobile homes.
- (2.) Multi-family dwellings, including condominiums, townhouses, and individual units or clusters of detached units located on lots or tracts in single ownership or held in common ownership under a condominium agreement.
- (3.) Customary accessory building, including garages and storage buildings.
- (4.) Recreational facilities intended exclusively for use by the owners, residents and guests of the RPUD, and which are an integral part of such development.

- (5.) The following accessory commercial uses may be permitted in a Residential Planned Unit Development, designed for fifty (50) or more dwelling units, subject to the provisions of this section:
- (a.) Real estate sales and rental offices for on-premises inventory only.
 - (b.) Administrative offices for the Residential Planned Unit Development.
 - (c.) Property management offices exclusively for the Planned Unit Development.

The above listed accessory uses may be permitted subject to the following conditions:

- (1) The Residential Planned Unit Development shall have a minimum of seven (7) acres.
 - (2) All sales and rentals shall be for the use and convenience of the owners, residents or guests of the Residential Planned Unit Development.
 - (3) All accessory uses listed in this subsection shall not occupy more than ten (10%) percent of the total floor area of the Residential Planned Unit Development, except that in no case shall the accessory uses exceed a maximum of 10,000 square feet. No individual accessory use permitted in this subsection shall occupy more than five (5%) percent of the total floor area of the development, except that in no case shall the accessory use exceed a maximum of 30,000 square feet.
(Amended 6-7-1988)
 - (4) Any accessory use permitted in this section shall be designed in a manner compatible with the architectural style and function of the RPUD and development on adjacent properties.
- 6.) The following accessory commercial uses may be permitted in a Residential Planned Unit Development which contains one hundred fifty (150) or more dwelling units with certificates of occupancy, subject to the provisions of this section:
- (a.) Retail sales for RPUD residents and guests, excluding petroleum products sold or disbursed from pumps, and provided no merchandise may be displayed or stored outside of the building.

- (b.) Sports equipment sales and rentals for Residential Planned Unit Development residents and guests.
- (c.) Restaurants, when incorporated in the Residential Planned Unit Development.

The above listed accessory uses may be permitted subject to the following conditions:

- (1) The Residential Planned Unit Development shall have a minimum of seven (7) acres.
- (2) All sales and rentals shall be for the use and convenience of the owners, residents and guests of the Planned Unit Development.
- (3) All accessory uses listed in this subsection shall not occupy more than ten (10%) percent of the total floor area of the Residential Planned Unit Development, except that in no case shall the accessory uses exceed a maximum of 30,000 square feet. No individual accessory use permitted in this section shall occupy more than five (5%) percent of the total floor area of the development, except that in no case shall the accessory use exceed a maximum of 6,000 square feet. *(Amended 6-7-1988)*
- (4) Any accessory use permitted in this section shall be designed in a manner compatible with the architectural style and function of the RPUD and development on adjacent properties.

801.4 **Design Requirements.**

The Residential Planned Unit Development shall be designed and constructed in accordance with the standards of this section, other applicable sections of this ordinance, and such other conditions as may be required by the Board of Adjustment.

(1.) **Minimum Size and Ownership.**

The minimum lot area required for a Residential Planned Unit Development shall be at least two (2) contiguous acres. The required two (2) acres shall not be divided by nor shall include any portion of an existing public street or right-of-way. Furthermore, no existing public rights-of-way or bodies of water shall qualify as a portion of the required minimum lot area. All of the land area within the proposed Residential Planned Unit Development shall be under single ownership or control of the applicant at the time the application is submitted.

(2.) **Density.**

The maximum residential density permitted in a Residential Planned Unit Development shall be eight (8) units per acre, based upon the net lot area.

In calculating the project density, the property acreage in any road rights-of-way and bodies of water shall be excluded from the total project acreage in order to determine the net lot area. The number of dwelling units permitted shall be rounded to the lowest whole number, not to exceed eight (8) dwelling units per acre.

In reviewing the site plans, the Board of Adjustment may determine that a lower density is required because of an adjacent neighborhood, the capacity of existing streets, water and sewer facilities, or the adequacy of fire protection and municipal services in the area where the project is proposed for development.

(3.) **Dimensional Requirements and Building Coverage.**

The required yards and setbacks for individual structures of the R-3 district shall not apply to the Residential Planned Unit Development (RPUD). Within the development, no dwelling building shall be located closer than thirty (30) feet from any adjacent street right-of-way line or twenty-five (25) feet from any exterior property line. Non-dwelling accessory buildings, structures or facilities such as, but not limited to, covered information areas and private security booths may be allowed within an adequate proximity to any adjacent street right-of-way located in the RPUD. Non-dwelling accessory buildings, structures or facilities such as, but not limited to, covered informational areas and private security booths shall be located no closer than twenty-five (25) feet from any exterior property line of the RPUD. There shall be a minimum of twenty (20) feet between structures in the RPUD. The total building coverage area, including non-dwelling accessory buildings, structures or facilities but excluding roads, parking and service areas, and recreational facilities, shall not exceed twenty percent (20%) of the net lot area.

All of the afore stated dimensional requirements and building coverage requirements shall be reviewed by the Village Planning Board and approved by the Village Board of Adjustment during the initial application process for a special use permit concerning the overall site plan as provided in Chapter 1, Article VIII, Section 801.5 and Article XII.

If a special use permit for the overall project or a specific phase has been approved as prescribed in the zoning ordinance and the developer later encounters a difficulty or hardship in relation to the street setbacks of non-dwelling accessory buildings, structures or facilities, the Zoning Administrator is authorized to adjust only said setbacks to within an adequate proximity of the relevant street right-of-way in the RPUD. Said adjustment

shall only be performed if the developer can prove the necessity for the requested change. Such factors as aesthetics, public safety, public information, traffic flow and parking shall be considered in determining the necessity.

(4.) **Building Requirements.**

All buildings in a RPUD shall conform to the following requirements:

- (a.) **Building Height.** No building or structure erected as a part of a RPUD shall have a maximum height which exceeds thirty-five (35) feet as defined in Section 502.
- (b.) **Square Foot Minimum Requirements.** No residential buildings in a RPUD containing one or more dwelling units shall contain less than sixteen hundred (1600) square feet or heated floor space.
- (c.) **Square Foot Minimum Requirements Per Dwelling Unit.** No residential dwelling unit within a RPUD shall contain less than eight hundred (800) square feet of heated floor space.

(5.) **Utilities.**

The residential Planned Unit Development shall have all utility lines located underground. Further, the utilities shall conform to the following requirements:

- (a.) **Water Systems.** Adequate water volume and pressure for domestic use and fire protection shall be available to the proposed project from the Carolina Water Service water system. The water system shall be designed by a registered engineer, and approved by the appropriate state and local agencies.
- (b.) **Sewer Systems.** The project shall have access to the Carolina Water Service sewerage system. The project's system shall be designed by a registered engineer, and approved by the appropriate state and local agencies.
- (c.) **Storm Water Drainage.** Storm water runoff shall be collected, channeled or piped to discharge into natural drainage ways in a manner which will not cause erosion problems on adjacent public or private property. The system shall be designed by a registered engineer or other competent professional. The system shall meet Village standards for a 25 year storm capacity. The design shall incorporate requirements of the erosion and sedimentation control plan during the construction phase, as well as the required facilities and design standards for the completed project.

(6.) **Street Design and Access.**

All Residential Planned Unit Developments shall have at least two hundred (200) feet of continuous frontage on a public road or highway. All public or private streets or roads within a Residential Planned Unit Development shall be designed and built to the public street standards in Chapter 12, Section 405 of the Sugar Mountain Subdivision Ordinance. The Village of Sugar Mountain reserves the right to accept streets offered to it for dedication to the public. Compliance with the Village street standards as defined in the subdivision ordinance and other applicable Village ordinances shall be prerequisite for acceptance by the Village.

(7.) **Exterior Lighting.**

A Residential Planned Unit Development shall be provided with an exterior lighting system for the safety of access drives, service areas, and pedestrian walks. The lighting should incorporate lighting for pedestrian and vehicular safety and for crime prevention within the development. The lighting fixtures shall be designed in keeping with the scale and architectural harmony of the project. The fixtures shall be oriented, to the degree possible, to reduce glare within the project and on adjacent properties.

(8.) **Landscaping and Screen Planting.**

Within a Residential Planned Unit Development, a landscaping plan shall be considered a required element of the project. The landscaping plan shall require that all exposed surfaces be covered with a permanent plant or mulch material. Landscaping or natural vegetation shall cover at least twenty (20%) percent of the total lot area.

The plan shall incorporate existing vegetation or landscaping trees and shrubs for the parking areas at a ratio of not less than one (1) tree for each ten (10) parking spaces. The eight (8) foot setback required for all parking lots adjacent to any street right-of-way shall be incorporated in the landscaping plan. All trees and plant materials shall be plant materials shall be planted and maintained with accepted nursery practices, and all dead materials shall be replaced by the next growing season. Provisions for the permanent maintenance of all landscaping and screen planting areas and materials shall be incorporated in the restrictions and covenants required by this ordinance.

Where the Planning Board and the Board of Adjustment deem necessary, a screen planting shall be provided to form a visual separation between the Residential Planned Unit Development and adjacent residential areas where existing vegetation is inadequate. Screen plantings shall include two (2) staggered rows of evergreen trees. Trees in each row shall be planted, as a minimum, at eight (8) foot intervals, and shall have a minimum height of five (5) feet when planted. The trees shall be planted and maintained in accordance with accepted nursery practices, and all dead materials shall be replaced by the next growing season.

(9.) **Design.**

Conformity to the following standards is encouraged, but not required:

Where possible, use indigenous materials of the region such as stone or natural wood.

Buildings and grounds should be designed utilizing colors, materials, finishes and proportions in a manner to produce a coordinated appearance.

(10.) **Restrictions and Covenants.**

Restrictions or covenants for the permanent ownership and maintenance of common areas and facilities, open space, landscaping and screening, roads and utilities are required as part of submission.

801.5 Review Process.

Prior to the issuance of any permits for construction or development of a Residential Planned Unit Development, a developer shall make application for a special use permit with the Zoning Administrator. The application and review process shall incorporate the following procedures:

(1.) **Preliminary Conference.**

At the time of the application, the developer shall schedule a conference with the Zoning Administrator to review the standards and procedures required by the ordinance prior to the Planning Board's consideration of the application.

(2.) **Planning Board Review.**

Following the preliminary conference with the Zoning Administrator, a developer shall submit seven (7) copies of the preliminary site plan with the required documentation in Chapter 1, Article VIII, Section 801, § 801.7 to the office of the Zoning Administrator at least fourteen (14) days prior to the Planning Board's first scheduled consideration of the project. The Planning Board shall review the preliminary site plan for conformance with the provisions of the ordinance and forward its recommendations to the Board of Adjustment. If no action is taken by the Planning Board within forty-five (45) days after its first consideration of the plans, the plans shall be deemed to have been recommended for approval by the Planning Board. (*Amended 4/5/1988*)

(3.) **Board of Adjustment Review.**

Following the Planning Board's review, the site plans, documentation, and the Board's recommendations shall be forwarded to the Board of Adjustment for its action in accordance with the provisions in this section and Article XII of this ordinance. The Board of Adjustment may approve, conditionally approve, or disapprove the preliminary site plans. Upon approval of the preliminary site plans by the Board of Adjustment, the developer may submit

final site plans for review and approval. No permits shall be issued until final site plans have been submitted and approved by the Board of Adjustment.

(4.) **Final Site Plan Review.**

Upon approval by the Board of Adjustment of the preliminary site plan, except as otherwise provided, the developer shall submit seven (7) copies of the final site plan for the entire project or a specific phase of the project to the Zoning Administrator at least fourteen (14) days prior to the Planning Board's first consideration of the project. The final site plan and documentation shall conform with the approved preliminary site plan and the required information in Chapter 1, Article VIII, Section 801, § 801.8 and other applicable sections of this ordinance. (*Amended 4-5-1988*)

The Planning Board shall review the final site plan for conformance with the approved preliminary site plan and requirements of this ordinance and forward its recommendation to the Board of Adjustment. If no action is taken by the Planning Board within forty-five (45) days after its first consideration of the final site plans, the plans shall be deemed to have been recommended for approval by the Planning Board.

(5.) **Board of Adjustment Review.**

Following the Planning Board's review of the final site plans, the Board of Adjustment shall review and approve, conditionally approve, or disapprove the final site plans in accordance with the requirements and procedures of this section and Article XII of this ordinance.

(6.) **Waiver of Preliminary Site Plan.**

A developer may choose to omit the preliminary site plan review, provided the project is to be completed in one phase and all of the required documentation is provided and submitted in accordance with this section.

801.6 **Project Phasing.**

Every Residential Planned Unit Development which is to be developed in phases shall submit a preliminary site plan for the entire project site owned or controlled by the developer. The preliminary site plan shall incorporate the information contained in Section 801.7, and shall be reviewed and approved by the Planning Board and Board of Adjustment prior to the approval of the final site plans for any individual phase of the project. Each phase shall, within itself, satisfy the requirements of Section 801.4.

801.7 **Preliminary Site Plan Requirements.**

Upon application for a Residential Planned Unit Development, and following the preliminary conference with the Zoning Administrator, a developer shall submit a preliminary site plan for the entire RPUD project, except where a waiver is permitted in accordance with 801.5 (6). The preliminary site plan shall provide the following information on the plan and include accompanying documentation:

- (1.) The proposed name of the development and the names of the developer, land owner, engineer, architect, and landscape architect or other professionals.
- (2.) A site plan to a scale of not less than 1" = 50', a North Arrow, a vicinity map, and date. Topographic mapping with contour intervals of not more than five feet.
- (3.) A legal boundary description of the entire tract proposed for development, including a statement that the area shown on the preliminary site plan includes all the area and development currently under ownership, option or other consideration by the land owner or developer shown on this plan. The description shall include the location of all existing rights-of-way, easements, streams or waterways, adjacent property uses, and the names of adjacent property owners.
- (4.) Project layout including the location of all existing structures and the proposed general location and allocation of dwelling units, road locations, accessory structures and uses, setbacks, buffers and landscaping areas, natural areas, recreational facilities and areas, and project phasing lines.
- (5.) Preliminary utility layouts with preliminary approval from the appropriate local or state agencies. The location of all other utilities within or adjacent to the development site.
- (6.) Proposed typical site details for lighting, signage, walkways, fencing or walls, landscaping, parking layout, cross section for roads, access roads, and traffic volume, and any other pertinent site details. The site details shall be accompanied with a written description of how services and improvements are to be provided.
- (7.) Preliminary information on the proposed covenants or restrictions with regard to the ownership and maintenance of common areas and facilities, open space, landscaping and screening, roads and utilities.
- (8.) Summary of project data including:
 - (a.) Total project area.
 - (b.) Approximate net project area.
 - (c.) Total density permitted and density requested.
 - (d.) Approximate percent of building coverage.
 - (e.) Approximate percent of open space.

- (f.) Approximate length of roads and designation as public or private.
- (g.) Type of units and conceptual plans and evaluations for residential structures.
- (9.) A designation and description of the proposed phasing plan for the project, including the approximate timing schedule, and the type of guarantee of performance to be requested.

801.8 **Final Site Plan.**

Upon approval of the preliminary site plan by the Board of Adjustment, except as waived under Chapter 1, Article VIII, Section 801, § 801.5 (6), the developer shall submit a final site plan in accordance with Section 801.5 and shall contain the following information:

- (1.) The proposed name of the development and the names of the developer, landowner, engineer, architect, designer, landscape architect, or other professional.
- (2.) The site plan to a scale not less than 1" = 50', a North Arrow, a vicinity map, and date. Topographic mapping with contour intervals of not more than five feet.
- (3.) A legal boundary description of the entire tract proposed for development, the location of all existing rights-of-way, easements, streams or waterways, adjacent property uses, and the names of adjacent property owners. If the final plans are for a phase of the RPUD, the specific phase of the project shall be shown.
- (4.) Project layout including the location of all existing structures and the building envelope for each proposed principle and accessory structure and use, setbacks, and road, off-street parking and loading layout. A typical cross section and public or private designation for all roads shall be submitted if not approved with a preliminary site plan.
- (5.) Basic floor plans, rendered elevations or perspectives.
- (6.) The landscaping and screening plans, and the approximate location of all walkways, recreational areas, fences and walls, lighting, and signage. If the proposed typical site details for these items were not approved with a preliminary site plan, said details shall be submitted with the final site plan.
- (7.) The location, size, and gradient of all sanitary and storm sewers and water mains. The location of all other utilities within or adjacent to the development site.

- (8.) Method of buffering or concealing service areas, garbage retention and collection areas, and mechanical equipment from public and residential areas.
- (9.) Method of collecting, channeling, or piping to discharge storm water into natural drainage ways that will assure no damage to town facilities or neighboring properties.
- (10.) Approval for connections to public water and sewerage systems, electric and phone.
- (11.) Approval of the Soil Erosion and Sedimentation Control Plan by the appropriate state or local agency.
- (12.) Submission of the proposed covenants or restrictions for the ownership and maintenance of all common areas and facilities, open space, landscaping and screening, roads and utilities.
- (13.) Submission of the proposed guarantee of performance provisions, including a list of all improvements to be covered by the guarantee agreement.
- (14.) Summary of project data including:
 - (a.) Total project area – Area in proposed phase.
 - (b.) Net project area in proposed phase.
 - (c.) Total density proposed – Density in proposed phase, including number of dwelling units.
 - (d.) Percentage of building coverage in proposed phase in relation to project total building coverage.
 - (e.) Percentage of open space and landscaping in proposed phase in relation to project total building coverage.
 - (f.) Length of roads and public or private designation in the proposed phase.

801.9 **Initiation of Construction.**

No ground disturbing activities shall be initiated until the final site plans have been approved by the Board of Adjustment, a guarantee of performance has been approved, and until all local utility approvals and an approved Soil Erosion and Sedimentation Control Plan have been received.

801.10

Timing.

If no development has occurred pursuant to the issuance of a special use permit (a) one year after the date of the special use permit for the Residential Planned Unit Development, or (b) upon the expiration of one 90-day extension of time for starting development granted by the Board of Adjustment, the special use permit shall become null and void and the procedures for application and review as outlined in this section shall be required for any development on subject property.

For each phase, a time of completion date shall be agreed upon. Upon reaching this date, if the project has not been completed, the special use permit is null and void. The developer must reapply for a new special use permit in accordance with the provisions of Chapter 1, Article VIII, Section 801 before construction can continue.

801.11

Staged Development.

After general construction commences, the Zoning Administrator shall review, at least once every three (3) months, all permits issued and compare them to the overall development program. If determined that the rate of construction substantially differs from the approved site plan, the Zoning Administrator shall so notify the developer and Board of Adjustment in writing. Thereafter, the Board of Adjustment may issue such appropriate orders to the developer as it sees fit, and upon continued violation of this section, may order the Zoning Administrator to refuse any further permits until the project is in general accordance with the approved final site plan.

801.12

Guarantee of Performance.

In order to insure that the public improvements are completed properly within a period of time specified by the Village Council, the developer shall enter into a guarantee for completion with the Village Council. A performance guarantee shall be negotiated between the developer and the Village Council prior to the issuance of the special use permit by the Board of Adjustment.

The guarantee of performance shall require that the developer complete the public improvements including, but not limited to, roads, parking areas and rights-of-way; water and sewer facilities; drainage, erosion and sedimentation control facilities; to be guaranteed are to be designated with submission of the final site plan. The guarantee shall be provided by either a performance bond, letter of credit, certified check, cash escrow, cash payment, or property bond as approved by the Village Council.

The guarantee of performance shall be in an amount equal to 125% of the cost of the improvements included in the final site plan. If the project is to be completed in phases, the guarantee of performance may be applied to each phase. The release of a guarantee or performance, in total or in part, based on the percentage of improvements completed, by the Village Council shall be made upon a certification from the Zoning Administrator that the improvements have been completed in accordance with the approved final site plan for a phase of the overall project or the entire project.

- 801.13 **Default.**
Upon default, meaning failure on the part of the developer to complete the required improvements as specified and within the time period specified in the guarantee of performance, the institution holding the guarantee shall, if requested by the Village Council, pay all or any portion as may be required of the guarantee to the Village of Sugar Mountain for the purpose of completing specified improvements. Upon payment, the Village Council, at its discretion, may expend such portion of said funds as it deems necessary to have completed all or any portion of the required improvements. The Village shall return to the institution any funds not spent in completing the improvements.
- 801.14 **Construction Codes.**
Developer must comply with all applicable state and local construction codes and requirements.
- 801.15 **Changes to Approved Plans.**
The Zoning Administrator shall have the authority to approve minor changes requested by the developer to the approved final site plan when minor changes can protect environmental features of the site. All other changes shall require a review and approval from the Board of Adjustment.
- The Village of Sugar Mountain shall have the authority to require changes to the approved preliminary plan and subsequent final site plans which reflect changes in officially adopted maps, village policy, or programs established to enhance the public health, safety, and welfare.
- 801.16 **Failure to Comply.**
Construction and use of the Residential Planned Unit Development shall be as set forth in the plans and applications approved by the Board of Adjustment. Construction or use differing from the approved plans and applications, except as provided in Chapter 1, Article VIII, Section 801, § 801.15, shall be deemed a violation of this ordinance and subject to the enforcement under Chapter 22 of this Code of Ordinances. *(Amended 1-7-1992)*

SECTION 802. COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD).
(Added 4-7-1987) (Entire Article Amended 3-1-1988)

- 802.1 **Intent and Purpose.**
The Commercial Planned Unit Development (CPUD) is established to encourage a more creative, aesthetic approach to land and building site planning for commercial uses. It is the intent and purpose of this section that a CPUD compatibly blend with the existing character of Sugar Mountain in areas where existing utilities and community services are available and sufficient to accommodate an increased intensity of commercial development. The development of a CPUD as a special use provides a broader range of flexibility in site design, while providing for the

installation of adequate parking and access, utilities, landscaping and screening within a unified and controlled site plan review and approval process by the Board of Adjustment. The Board of Adjustment shall have the authority to determine whether a proposed development is compatible with the character of the community and the neighborhood in which it is located. The Board of Adjustment shall require that the proposed CPUD comply with provisions of this section and other applicable sections of the zoning ordinance and that certain reasonable conditions and modifications may be required by the Board of Adjustment in order to insure the safety, property values, and aesthetic environment of the development for its patrons and adjacent properties.

802.2 **Location.**

A CPUD may be issued a special use permit in the C-B Commercial Business District, R-C Resort Commercial District, and the O-B Office Business District.

802.3 **Permitted Uses.**

Within a CPUD, a building or land area shall be used only for the uses permitted in the district in which the proposed development is to be located.

Any accessory structure permitted in this section shall be designed in a manner compatible with the architectural style and function of the CPUD and development on adjacent properties.

802.4 **Design Requirements.**

The CPUD shall be designed and constructed in accordance with the standards of this section, other applicable sections of this ordinance, and such other conditions as may be required by the Board of Adjustment.

(1.) **Minimum Size and Ownership.**

The minimum lot area required for a CPUD shall be the minimum lot area required in the district in which the development is to be located. The required minimum lot area shall not include any portion of an existing public street or road right-of-way. Furthermore, no existing public rights-of-way or bodies of water shall qualify as a portion of the required minimum lot area. All of the land area within the proposed CPUD shall be under single ownership or control of the applicant at the time the application is submitted.
(Amended 4-5-1988)

(2.) **Dimensional Requirements and Building Coverage.**

The Planning Board and the Board of Adjustment shall evaluate the site plan in order to determine that the proposed design of the project is acceptable with regard to the health, safety, and general welfare of the commercial development, the patrons, and adjacent properties. All buildings and structures with the exception of signs permitted by the Sugar Mountain Sign Ordinance shall be located to conform to the minimum yard requirements for the district in which the development is to be located along the exterior boundaries of the project property. The total building coverage area shall not

exceed thirty (30%) percent of the net lot area of the project site. Common wall construction may be permitted in a CPUD.

All of the afore stated dimensional requirements and building coverage requirements shall be reviewed by the Planning Board and approved by the Board of Adjustment during the initial application process for a special use permit concerning the overall site plan as provided in Section 802.5 of this article and Article XII.

If a special use permit for the overall project or a specific phase has been approved as prescribed in the zoning ordinance and the developer later encounters a difficulty or hardship in relation to the street setbacks of accessory buildings, structures or facilities, the Zoning Administrator is authorized to adjust only said setbacks to within an adequate proximity of the relevant street right-of-way in the CPUD. Said adjustment shall only be performed if the developer can prove the necessity for the requested change. Such factors as aesthetics, public safety, public information, traffic flow and parking shall be considered in determining the necessity.

(3.) **Building Requirements.**

Buildings in a CPUD shall conform to the following requirements:

- (a.) Building Height. No building or structure erected in CPUD shall have a maximum height which exceeds thirty-five (35) feet as defined in Section 502.

(4.) **Utilities.**

The CPUD shall all utility lines located underground. Further, the utilities shall conform to the following requirements:

- (a.) Water System. Adequate water volume and pressure for domestic use and fire protection shall be available to the proposed budget from the Carolina Water Service water system or other approved water system. The water system shall be designed by a registered engineer, and approved by the appropriate state and local agencies.
- (b.) Sewer System. The project shall have access to the Carolina Water Service sewerage system or other approved sewer system. The project's system shall be designed by a registered engineer, and approved by the appropriate state and local agencies.
- (c.) Storm Water Drainage. Storm water runoff shall be collected, channeled or piped to discharge into natural drainage ways in a manner which will not cause erosion problems on adjacent public or private property. The system shall be designed by a registered engineer or other competent professional. The system shall meet

Village standards for a 25 year storm capacity. The design shall incorporate requirements of the erosion and sedimentation control plan during the construction phase, as well as the required facilities and design standards for the completed project.

(5.) **Soil Erosion and Sedimentation Control Plan.**

Prior to any land disturbing activities on a site proposed for a CPUD, a Soil Erosion and Sedimentation Control Plan shall be submitted to and approved by the local or state agency responsible for enforcement of the state soil erosion and sedimentation laws.

(6.) **Street Design and Access.**

All CPUDs shall have at least 100 feet of continuous frontage on a public road or highway. All public or private streets or roads within a CPUD shall be designed and built to the public street standards in Section 405 of the Sugar Mountain Subdivision Ordinance. The public and private streets within a CPUD shall be designed to accommodate the volumes of traffic generated by the proposed project. The Village Council may require improvements to the access roads, including widening, turning lanes, improved sight distances, or other improvements required to provide for the safety of vehicles and pedestrian traffic. The Village of Sugar Mountain reserves the right to accept streets offered to it for dedication to the public. Compliance with the Village street standards as defined in the subdivision ordinance and other applicable Village ordinances shall be a prerequisite for acceptance by the Village.

(7.) **Off-Street Parking.**

Off-street parking in a CPUD shall be provided in accordance with the requirements of Article IX, except as otherwise provided in this section. All parking spaces shall be set back at least eight (8) feet from any personal line or street right-of-way line. All parking lots shall be paved, and each parking space shall have at least a minimum area of one hundred seventy-one (171) square feet, exclusive of access drives and maneuvering space. Every parking space shall have at least a minimum width of nine (9) feet and at least a minimum length of nineteen (19) feet.

(8.) **Off-Street Loading and Unloading.**

Off-street loading space shall be provided in a CPUD off the street or alley. A loading space shall have the minimum dimensions of twelve (12) feet in width, and forty (40) feet in length. Every loading space shall have access to an alley or a public street. Off-street loading spaces shall be provided in a ratio of one (1) loading space for each 20,000 square feet of gross floor area or fraction thereof in the CPUD.

(9.) **Exterior Lighting.**

A CPUD shall be provided with an exterior lighting system for the safety of access drives, parking and service areas, and pedestrian walks. The lighting

should incorporate lighting for pedestrian and vehicular safety and for crime prevention within the development. The lighting fixtures shall be designed in keeping with the scale and architectural harmony of the project. The fixtures shall be oriented, to the degree possible, to reduce glare within the project and on adjacent properties.

(10.) **Landscaping and Screen Planting.**

Within a CPUD, a landscaping plan shall be considered a required element of the project. The landscaping plan shall require that all exposed surfaces be covered with a permanent plant or mulch material. Landscaping shall cover at least twenty (20%) percent of the total lot area. The plan shall incorporate existing vegetation or landscaping trees and shrubs for the parking lots at a ratio of not less than one (1) tree for each ten (10) parking spaces. The eight (8) foot setback required for all parking lots adjacent to any street right-of-way shall be incorporated in the landscaping plan. All trees and plant materials used in landscaping and screen planting shall be hardy and compatible with the climatic zone, and shall be maintained with accepted nursery practices, and all dead materials shall be replaced by the next growing season. Provisions for the permanent maintenance of all landscaping and screen planting areas and materials shall be incorporated in the restrictions and covenants required by this ordinance.

Where the Planning Board and the Board of Adjustment deem necessary, a screen planting shall be provided to form a visual separation between the CPUD and adjacent residential areas where existing vegetation is inadequate. Screen plantings shall include two (2) staggered rows of evergreen trees.

Trees in each row shall be planted at eight (8) foot intervals, and shall have a minimum height of five (5) feet when planted. The trees shall be planted and maintained in accordance with accepted nursery practices, and all dead materials shall be replaced by the next growing season.

(11.) **Design.**

Conformity to the following standards:

Where possible, use indigenous materials of the region such as stone or natural wood.

Buildings and grounds should be designed utilizing colors, materials, finishes and proportions in a manner to produce a coordinated appearance.

(12.) **Restrictions and Covenants.**

Restrictions or covenants for the permanent ownership and maintenance of common areas and facilities, open space, landscaping and screening, roads and utilities are required as part of submission.

(13.) **Outdoor Storage.**

The outdoor storage of goods, materials, and equipment is prohibited.

802.5 **Review Process.**

Prior to the issuance of any permits for construction or development of a CPUD, a developer shall make application for a special use permit with the Zoning Administrator. The application and review process shall incorporate the following procedures:

(1.) **Preliminary Conference.**

At the time of application, the developer shall schedule a conference with the Zoning Administrator to review the standards and procedures required by the ordinance prior to the Planning Board's consideration of the application.

(2.) **Planning Board Review.**

Following the preliminary conference with the Zoning Administrator, a developer shall submit seven (7) copies of a preliminary site plan with the required documentation in Chapter 1, Article VIII, Section 802, § 802.7 to the office of the Zoning Administrator at least fourteen (14) days prior to the Planning Board's first scheduled consideration of the project. The Planning Board shall review the preliminary site plan for conformance with its recommendations to the Board of Adjustment. If no action is taken by the Planning board within forty-five (45) days after its first consideration of the plans, the plans shall be deemed to have been recommended for approval by the Planning Board. (*Amended 4-5-1988*)

(3.) **Board of Adjustment Review.**

Following the Planning Board's review, the site plans, documentation, and the board's recommendations shall be forwarded to the Board of Adjustment for its action in accordance with the provisions in this section and Article XII of this ordinance. The Board of Adjustment may approve, conditionally approve, or disapprove the preliminary site plans. Upon approval of the preliminary site plans by the Board of Adjustment, the developer may submit final site plans for review and approval. No permits shall be issued until final site plans have been submitted and approved by the Board of Adjustment.

(4.) **Final Site Plan Review.**

Upon approval by the Board of Adjustment of the preliminary site plan except as otherwise provided, the developer shall submit seven (7) copies of the final site plan for the entire project or a specific phase of the project to the Zoning Administrator at least fourteen (14) days prior to the Planning Board's first consideration of the project. The final site plan and documentation shall conform with the approved preliminary site plan and the required information in Chapter 1, Article VIII, Section 802, § 802.8 and other applicable sections of this ordinance. (*Amended 4-5-1988*)

The Planning Board shall review the final site plan for conformance with the approved preliminary site plan and requirements of this ordinance and forward its recommendation to the Board of Adjustment. If no action is taken by the Planning Board within forty-five (45) days after its first consideration of the final site plans, the plans shall be deemed to have been recommended for approval by the Planning Board.

5.) **Board of Adjustment Review.**

Following the Planning Board's review of the final site plans, the Board of Adjustment shall review and approve, conditionally approve, or disapprove the final site plans in accordance with the requirements and procedures of this section and Article XII of this ordinance.

6.) **Waiver of Preliminary Site Plan.**

A developer may choose to omit the preliminary site plan for the entire project is to be completed in one phase and all of the required documentation is provided and submitted in accordance with this section.

802.6 **Project Phasing.**

Every CPUD which is to be developed in phases shall submit a preliminary site plan for the entire project site owned or controlled by the developer. The preliminary site plan shall incorporate the information contained in Chapter 1, Article VIII, Section 802, § 802.7, and shall be reviewed and approved by the Planning Board and Board of Adjustment prior to the approval of the final site plans for any individual phase of the project. Each phase shall, within itself, satisfy the requirements of Chapter 1, Article VIII, Section 802, § 802.4.

802.7 **Preliminary Site Plan Requirements.**

Upon application for a CPUD, and following the preliminary conference with the Zoning Administrator, a developer shall submit a preliminary site plan for the entire CPUD project, except where a waiver is permitted in accordance with Chapter 1, Article VIII, Section 802, § 802.5 (6). The preliminary site plan shall provide the following information on the plan and include accompanying documentation:

- (1.) The proposed name of the development and the names of the developer, land owner, engineer, architect, and landscape architect or other professionals.
- (2.) A site plan to a scale of not less than 1" = 50', a North Arrow, a vicinity map, and date. Topographic mapping with contour intervals of not more than five feet.
- (3.) A legal boundary description of the entire tract proposed for development, including a statement that the area shown on the preliminary site plan includes all the area and development currently under ownership, option or other consideration by the land owner or developer shown on this plan. The description shall include the location of all existing rights-of-way, easements,

streams of waterways, adjacent property uses, and the names of adjacent property owners.

- (4.) Project layout including the location of all existing structures and the proposed general location and use of all principle buildings, road locations, accessory structures and uses, setbacks, buffers and landscaping areas, natural areas, and project phasing lines.
- (5.) Preliminary utility layouts with preliminary approval from the appropriate state agencies. The location of all other utilities within or adjacent to the development site.
- (6.) Proposed typical site details for lighting, signage, walkways, fencing and walls, landscaping, parking layout, service areas, solid waste storage, cross section for roads, access roads, and traffic volume, and any other pertinent site details. In site details shall be accompanied with a written description of how services and improvements are to be provided.
- (7.) Preliminary information in the proposed covenants or restrictions with regard to the ownership and maintenance of common areas and facilities, open spaces, landscaping and screening, roads and utilities.
- (8.) Summary of project data including:
 - (a.) Total project area.
 - (b.) Approximate net project area.
 - (c.) Approximate percent of building coverage.
 - (d.) Approximate percent of landscaping.
 - (e.) Approximate length of roads and designation as public or private.
 - (f.) Conceptual plans and elevations for commercial structures.
- (9.) A designation of the proposed phasing plan for the project, including the approximate timing schedule, and the type of guarantee of performance to be requested.

802.8 **Final Site Plan.**

Upon approval of the preliminary site plan by the Board of Adjustment, except as waived under Chapter 1, Article VIII, Section 802, § 802.5 (6), the developer shall submit a final site plan in accordance with Section 802.5 and shall contain the following information:

- (1.) The proposed name of the development and the names of the developer, land owner, engineer, architect, designer, landscape architect, or other professional.
- (2.) The site plan to a scale not less than 1" = 50', a North Arrow, a vicinity map, and date. Topographic mapping with contour intervals of not more than five (5) feet.
- (3.) A legal boundary description of the entire tract proposed for development, the location of all existing rights-of-way, easements, streams or waterways, adjacent property uses, and the names of adjacent property owners. If the final plans are for a phase of the CPUD, the specific phase of the project shall be shown.
- (4.) Project layout including the location of all existing structures and the building envelope for each proposed principle and accessory structure and use, setbacks, service areas, and road, off-street parking and loading layout. A typical cross section and public or private designation for all roads shall be submitted if not approved with a preliminary site plan.
- (5.) Basic floor plans, rendered elevations or perspectives.
- (6.) The landscaping and screening plans and the approximate location of all walkways, fences and walls, lighting and signage. If the proposed typical site details for these items were not approved with a preliminary site plan, said details shall be submitted with the final site plan.
- (7.) The location, size, and gradient of all sanitary and storm sewers and water mains. The location of all other utilities within or adjacent to the development site.
- (8.) Method of buffering or concealing service areas, garbage retention and collection areas, and mechanical equipment from public and residential areas.
- (9.) Method of collecting, channeling, or piping to discharge storm water into natural drainage ways that will assure no damage to town facilities or neighboring properties.
- (10.) Approval for connections to public water and sewerage systems, electric and phone.
- (11.) Approval of the Soil Erosion and Sedimentation Control Plan by the appropriate state or local agency.

- (12.) Submission of the proposed covenants or restrictions for the ownership and maintenance of all common areas and facilities, open spaces, landscaping and screening, roads and utilities.
- (13.) Submission of the proposed guarantee of performance provisions, including a list of all improvements to be covered by the guarantee agreement.
- (14.) Summary of project data including:
 - (a.) Total project area – area in proposed phase.
 - (b.) Net project area – area in proposed phase.
 - (c.) Percentage of building coverage in proposed phase in relation to project total building coverage.
 - (d.) Percentage of open space and landscaping in proposed phase.
 - (e.) Length of roads and public or private designation in the proposed phase.

802.9 **Initiation of Construction.**

No ground disturbing activities shall be initiated until the final site plans have been approved by the Board of Adjustment, a guarantee of performance has been approved, and until all local utility approvals and an approved Soil Erosion and Sedimentation Control Plan have been received.

802.10 **Timing.**

If no development has occurred pursuant to the issuance of a special use permit (a) one (1) year after the date of the special use permit for the CPUD, or (b) upon the expiration of one 90-day extension of time for starting development granted by the Board of Adjustment, the special use permit shall become null and void, and the procedures for application and review as outlined in this section shall be required for any development on subject property. For each phase, a time of completion date shall be agreed upon. Upon reaching this date, if the project has not been completed, the special use permit is null and void. The developer must reapply for a new special use permit in accordance with the provisions of Chapter 1, Article VIII, Section 802 before construction can continue.

802.11 **Staged Development.**

After general construction commences, the Zoning Administrator shall review, at least once every three (3) months, all permits issued and compare them to the overall development program. If determined that the rate of construction substantially differs from the approved site plan, the Zoning Administrator shall so notify the developer and Board of Adjustment in writing. Thereafter, the Board of Adjustment may issue such appropriate orders to the developer as it sees fit, and upon continued violation of

this section may order the Zoning Administrator to refuse any further permits until the project is in general accordance with the approved final site plan.

802.12 **Guarantee of Performance.**

In order to insure that the public improvements are completed properly within a period of time specified by the Village Council, the developer shall enter into a guarantee for completion with the Village Council. A performance guarantee shall be negotiated between the developer and the Village Council prior to the issuance of the special use permit by the Board of Adjustment.

The guarantee of performance shall require that the developer complete the public improvements including, but not limited to, roads, parking areas and rights-of-way; water and sewer facilities; drainage, erosion and sedimentation control facilities; and lighting and landscaping. The specific improvements to be guaranteed are to be designated with submission of the final site plan. The guarantee shall be provided by either a performance bond, letter of credit, certified check, cash escrow, cash payment, or property bond as approved by the Village Council.

The guarantee of performance shall be in an amount equal to 125% of the cost of the improvements included in the final site plan. If the project is to be completed in phases, the guarantee of performance may be applied to each phase. The release of a guarantee of performance, in total or in part, based on the percentage of improvements completed, by the Village Council shall be made upon a certification from the Zoning Administrator that the improvements have been completed in accordance with the approved final site plan for a phase of the overall project or the entire project.

802.13 **Default.**

Upon default, meaning failure on the part of the developer to complete the required improvements as specified and within the time period specified in the guarantee of performance, the institution holding the guarantee shall, if requested by the Village Council, pay all or any portion as may be required of the guarantee to the Village of Sugar Mountain for the purpose of completing the specified improvements. Upon payment, the Village Council, at its discretion, may expend such portion of said funds as it deems necessary to have completed all or any portion of the required improvements. The Village shall return to the institution any funds not spent in completing the improvements.

802.14 **Construction Codes.**

Developer must comply with all applicable state and local construction codes and requirements.

802.15 **Changes to Approved Plans.**

The Zoning Administrator shall have the authority to approve minor changes requested by the developer to the approved final site plan when site conditions present hardships or when minor changes can protect environmental features of the

site. All other changes shall require a review and approval from the Board of Adjustment.

The Village of Sugar Mountain shall have the authority to require changes to the approved preliminary plan and subsequent final site plans which reflect changes in officially adopted maps, village policy, or programs established to enhance the public health, safety and welfare.

802.16 **Failure to Comply.**

Construction and use of the CPUD shall be as set forth in the plans and applications approved by the Board of Adjustment. Construction or use differing from the approved plans and applications, except as provided in Chapter 1, Article VIII, Section 802, § 802.15, shall be deemed a violation of this ordinance and subject to enforcement under Chapter 22 of this Code of Ordinances. (*Amended 1-7-1992*)

ARTICLE IX GENERAL PROVISIONS

SECTION 900. OFF-STREET PARKING AND LOADING REQUIREMENTS

900.1 Intent.

It is the intent of these regulations that adequate parking and loading facilities shall be provided on private property in order to promote the public safety, to lessen congestion in the public streets for traffic movement unhindered by parking, loading and unloading maneuvers conducted within the public streets. To achieve these purposes, it is further intended that upon the erection of any building or the use of any lot, off-street parking and loading space shall be provided which is not less than the minimum required herein. Compliance with these requirements shall be a continuing responsibility.

SECTION 901. OFF-STREET PARKING REQUIRED

Off-street automobile storage or parking space shall be provided on every lot on which any of the following uses are hereafter established. The number of parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall be provided with vehicular access to a street or alley and shall be provided with a minimum of twenty-eight (28) linear feet space for turning so that no vehicle shall be required to back into the street except from space used for single dwellings.

USES	REQUIRED PARKING
Any residential use consisting up to four (4) dwelling units.	Two (2) spaces for each dwelling unit not including the driveway
Tourists Courts, Hotels, Motels and Inns.	One (1) space for accommodation, plus one (1) space for each two (2) employees.
Multi-family structure containing more than four (4) dwelling units, including condominiums.	Two (2) spaces for each dwelling unit. <i>(Amended 6-3-1997)</i>
Golf and Snow Ski Areas.	One (1) space for every four (4) customers using the facilities on any given day.
Retail stores and shops including barber and shoe and similar service outlets.	One (1) space for each two hundred (200) feet of gross floor space.

Churches and places of Worship (<i>Added 11-19-2002</i>)	One (1) space for each four (4) seats
Restaurants	One (1) space for each three (3) seating accommodations plus one (1) space for each two employees on shift of greatest employment.

901.1 **Location on Other Property.**

If the required automobile parking spaces cannot reasonably be provided on the same lot on which the principle use is conducted, such spaces may be provided on other off-street property provided such property lies within reasonable walking distance of the main entrance of such principle use unless a shuttle service is provided. Such automobile parking space shall be associated with the principle use and shall not thereafter be reduced or encroached upon in any manner.

901.2 **Setbacks.**

All parking spaces required in this ordinance shall be setback at least five (5) feet from adjacent street right-of-way, and at least eight (8) feet from the edge of the street when no right-of-way exists beyond the street.

901.3 **Designation of Parking Spaces.**

All parking spaces required in this ordinance shall be marked or designated by painted lines or an equivalent in a paved parking lot.

901.4 **Landscaping Requirements for Large Parking Lots.**

All parking areas located in the Village of Sugar Mountain which contains ten (10) or more parking spaces shall be landscaped in accordance with the following standards:

- (1.) The five (5) foot setback area required in Chapter 1, Article IX, Sections 901, & 901.2 above shall be landscaped in a manner which does not obstruct visibility at points of ingress or egress. The landscaping shall include live vegetation ground cover, grass, trees or shrubs.
- (2.) Every off-street parking area constructed after the effective date of this amendment, or all off-street parking areas which add any off-street spaces after the effective date of this amendment shall provide and maintain landscaped planting areas within and adjacent to the parking areas. Each planting area shall have at least one (1) locally adapted deciduous tree with a minimum of one (1) inch caliper. There shall be one (1) tree for the first ten (10) off-street parking spaces required in the project. One (1) tree shall be required for every ten (10) additional parking spaces or fraction thereof.

All landscape materials shall be planted or landscaped in a manner which will prevent damage from cars in the parking areas. All damaged or diseased

landscape materials shall be replaced with new landscape materials which meet the minimum standards of this section.

When natural vegetation is retained in the construction of a parking area, new landscape materials shall not be required if the standards of this section are met or exceeded. However, landscape materials which do not survive shall be replaced.

- (3.) Any project which requires a landscaped parking area as required in this section shall submit a landscape plan with an application for a zoning compliance permit. The landscape plan shall be reviewed by the Sugar Mountain Planning Board.

SECTION 902. LOCATION AND SCREENING OF FUEL STORAGE TANKS

(Added 6-7-1988)

All above ground fuel storage tanks shall be located according to the table below. Said storage tanks shall be located underground or screened from view from all adjacent properties and rights-of-way. Screening material may include evergreen material which can reasonably be expected to completely screen said storage tanks, and/or architectural screens which shall blend with the building materials incorporated in the principle structure. *(Amended 6-3-1997)*

**TABLE I
MINIMUM DISTANCE FROM DWELLING**

Water Capacity Per Container	Mounded or Underground	Aboveground Containers	Between Containers
Less than 125 (0.5)	10 ft. (3m)	None	None
125 to 250 (0.5 to 1.0)	10 ft. (3m)	10 ft. (3m)	None
251 to 500 (1.0 to 1.9)	10 ft. (3m)	10 ft. (3m)	3 ft. (1m)
501 to 2,000 (1.9 to 7.6)	10 ft. (3m)	25 ft. (7.6m)	3 ft. (1m)

Note: This distance may be reduced to not less than 10 ft. (3m) for a single container of 1,200 gal. (4.5m) water capacity or less provided such container is at least 25 ft. (7.6m) from any other LP Gas container of more than 125 gal. (0.5m) water capacity.

SECTION 902. ONE PRINCIPLE BUILDING ON A LOT OF RECORD

(Deleted 1-7-1986)

SECTION 903.

VISIBILITY AT INTERSECTIONS

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than two and one-half (2.5 ft.) in height measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way lines each of which is thirty-five (35) feet from the point of intersection.

SECTION 904.

JUNK YARDS

Junk yards are prohibited in the Village of Sugar Mountain.

SECTION 905. COMMERCIAL GUIDELINES FOR OUTDOOR DINING AND CAFÉS

(Adopted August 18, 2015)

Outdoor dining shall be permitted in the CB, Commercial Business District with an approved Zoning Permit with conditions, as a secondary use.

- (a) All outdoor dining areas shall conform to provisions and guidelines of this section. The Zoning Administrator shall issue no Zoning Permit to authorize the installation of an outdoor dining area without prior approval after review by the health department of the plans for such installation. Elements to be reviewed shall include: the type, number and placement of tables, chairs, and/or other dining furniture; the placement, design and color of awnings; the design and placement of planters, trash receptacles, billiards, fences and other street furnishings and landscaping. The type, amount and location of surface material and corresponding loss of green space if any, the limits of encroachment, if any, into public rights-of-way, the width of the unobstructed pedestrian thoroughfare adjacent to the outdoor dining area.
- (b) Any encroachment of outdoor dining area into a public right-of-way must be approved first by the Village Manager or his/her designee. The action of the City Manager or designee is subject of the review of the Village Council. The applicant must adhere to all terms and provisions specified in the agreement granted by either the Village Manager or the Village Council.
- (c) Alcoholic beverages may be served in the outdoor dining area if the establishment has an approved license for alcohol sales. Alcohol sales require the outdoor dining area to be secured to prevent access to the public right-of-way with alcoholic beverages.
- (d) Any outdoor dining area shall be surfaced with bricks, wood decking, exposed aggregate, paves or similar material effectively treated to facilitate maintenance. Surfaces shall be kept

free of litter and shall be graded to prevent pooling of water. No refuse containers may be permitted on these surfaces overnight.

- (e) The outer edge of any outdoor dining areas shall not reduce the adjacent pedestrian thoroughfare to less than four feet.
- (f) The hours of operation of the outdoor café shall not extend beyond the normal operating hours of the principal establishment.
- (g) Tables, chairs and other furniture placed within the outdoor dining areas shall be readily available for use. Any furniture, which is not readily accessible, may not be stored within the outdoor dining area.
- (h) All outdoor furniture, including tables, chairs, umbrella bases and poles, benches, trash receptacles and other street furniture shall be compatible with the character of the district in size, scale, material and color. All outdoor furniture must have a uniform or complimentary design, color and material.
- (i) Awnings, umbrellas and all upholstered surfaces must be made of canvas or similar woven material that meets all local, state and federal safety and fire standards. Vinyl or plastic is prohibited.
- (j) Awnings shall be mounted within the window or entry opening, directly on the frame. If this is not possible, they should be attached just outside the opening. On masonry structures, attachments for awnings should be made in the mortar joints and not in the brick itself.
- (k) Furniture, lighting fixtures and poles shall be compatible in scale and materials with the structures, landscape and neighboring setting.
- (l) Barriers or delineators shall be made of wrought iron or wood. Metal may also be appropriate.
- (m) The style of the barrier or delineator shall complement the architecture of the building façade and the style of the outdoor dining furniture.
- (n) The owner or proprietor may allow dogs to be present in the outdoor dining area, provided dogs are kept on a leash and under reasonable control at all times. Dogs shall not be allowed on chairs, tables, or other furnishings.

- (o) It shall be the responsibility of the dog owner to immediately clean any waste and sanitize the affected area with an approved product. A kit with appropriate cleaning materials shall be kept near the designated outdoor area.

NON-COMPLIANCE; PENALTIES FOR VIOLATION OF THIS ORDINANCE

905.1 Any person or entity that fails to comply with this ordinance within a period of sixty (60) days after a written notice from the Zoning Administrator shall then be subject to enforcement as here and after set out.

905.2 This Ordinance is subject to enforcement under Chapter 22 of the Code of Ordinances.

EFFECTIVE DATE

905.3 This ordinance shall take effect immediately after adoption

SECTION 906.

MOBILE FOOD TRUCK

(Adopted May 30, 2017)

The intent of this ordinance is to establish rules related to the location and operation of food trucks within the Village of Sugar Mountain and the Extraterritorial Jurisdiction (ETJ).

906.1 **Definitions:**

Co-op Advertising – Advertisement attached to or part of a vehicle that advertises anything other than the principal use and business of the vehicle.

Food Truck – a licensed, motorized vehicle or mobile food unit that is placed upon any premises within The Village of Sugar Mountain and the ETJ for the purpose of selling food items to the general public.

Improved Individual Parcel/Mobile Food Site - any improved individual parcel where mobile food vending is permitted to occur.

Mobile Food Vending- commercial food service sales conducted through use of a Food Truck.

906.2 **Regulation of Mobile Food Vending**

1. Food Trucks are only permitted during festivals that are intended to promote the community and are approved by the Village of Sugar Mountain.
2. All persons wishing to operate a Food Truck must receive a permit from the Village of Sugar Mountain that will include permission of the property owner to park and operate upon those premises.

3. The location of a Food Truck must be at least ten feet from the edge of any property lines or right of way in relation to the property, unless the adjoining property owners agree to a lesser limit.
4. All Food Trucks shall be connected to a permanent power source. The use of Electric Generators in relation to Mobile Food Vending is allowed during an approved festival without a permanent power source when the generator is an integrated part of the Food Truck and noise regulation is no more than 60 dBA at 50 feet. Operation of a generator in a manner that exceeds a level of 60 dBA at 50 feet is prohibited.
5. Food Trucks shall locate trash receptacles and any other amenities being offered within 10 feet of the truck. Vendors shall remove any items placed by them upon leaving each night. No outdoor storage shall be allowed. Trash shall be removed each night and town trash receptacles shall not be used by a Mobile Food Vendor for purposes of waste disposal.
6. Food Trucks shall not be allowed to use amplified speakers, microphones, or bullhorns as part of their Mobile Food Vending.
7. All Mobile Food Vendors shall obtain and maintain a permit from the Avery County Health Department and keep such posted in a conspicuous place during hours of operation.
8. Free-standing, temporary, sandwich board signage and Co-op advertising is prohibited unless co-op advertising is related to the nature of the items the food truck is using and selling.
9. The hours of operation for a Food Truck shall be limited to the hours between 6am and 11:00 pm. Food Trucks may not remain after hours upon the premises unless registered to participate in a special event recognized by the Village of Sugar Mountain.
10. Food Trucks are not allowed within 10 feet of a fire hydrant or fire escape. Food Trucks shall not be allowed to block driveways, sidewalks, utility boxes, handicap ramps, access to loading/service areas, emergency access or fire lanes, building entrances or exits, tree trunks, or parking spaces.
11. Operators must be present at all times during hours of operation.
12. A Food Truck shall not operate as a drive-through window.
13. No Mobile Food Vending shall cause parking problems, traffic congestion, litter problems, or be used in a manner which creates a danger to public health or safety.

906.3 Violations

This Section is subject to enforcement under Chapter 22 of the Code of Ordinances.

906.4 Effective Date

This Section shall take effect immediately after adoption

SECTION 907. DISH ANTENNAS (OR EARTH STATIONS)

Dish antennas, as defined in Article XIV, are permitted as an accessory use in every zoning district in accordance with the standards and conditions in this section.

907.1 General Requirements.

- (1.) A permit is required when installing, moving, constructing, or reconstructing dish antennas.
- (2.) Dish antennas greater than four (4) feet in diameter shall be installed on the ground and may not be attached to the principle building.
- (3.) If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, pastel gray, or pastel gray-green. The paint shall have a flat (non-glossy) finish. No patterns, lettering, or numerals shall be permitted on the dish surface.
- (4.) A dish antenna shall not be installed or located within any public right-of-way or in any drainage area or utility easement.

907.2 Location in Yards and Setback Requirements.

- (1.) A ground mounted dish antenna shall be installed in the rear yard only, except when the rear yard abuts a public street. If the rear yard abuts a public street, the dish antenna shall be installed in a yard area which does not abut a public street whenever feasible.
- (2.) The minimum required setback for a dish antenna from a side lot line shall be the same as for the principle building except on corner lots. On corner lots, the minimum required setback on the side abutting the street shall be the same as the required front yard setback along that street. In all cases, a dish antenna shall not be located within twenty (20) feet of any street right-of-way.
- (3.) The minimum required setback for a dish antenna from the rear lot line shall be fifteen (15) feet, but in no case shall any part of the antenna be located closer than ten (10) feet from the property line.

907.3 Height Requirements.

The maximum height of a ground mounted dish antenna shall be fifteen (15) feet or the height of the principle building, whichever is less. No part of a roof-mounted dish antenna shall extend more than five (5) feet above the highest point of the roof.

907.4 **Buffering Requirement.**

A ground-mounted dish antenna shall be surrounded on all sides with any one or a combination of evergreen vegetation, topography, landscaped earth berm, or architectural features such as fences or buildings so that view of the lower two-thirds (2/3) of the dish is restricted from all public streets and six (6) feet above the ground level of surrounding property. If evergreen vegetation is used, a species and size shall be planted which can be expected to screen the required area within two (2) years of normal growth. Any screening vegetation which dies shall be replaced.

SECTION 908.

UNDERGROUND UTILITIES

All utility services in all districts shall be underground.

SECTION 909.

MUNICIPAL FUNCTIONS

Municipal uses and functions shall be allowed in all districts

SECTION 910.

ARCHITECTURAL DESIGN STANDARDS

(Adopted December 18, 2018 – Replaced Material and Color Requirements)

It is the intent of this section to establish the architectural review standards to replace the previously adopted Village of Sugar Mountain Material and Color Requirements (7-11-1995). These standards shall apply to all new construction, expansions and/or additions of 50% of the gross floor area of existing buildings, or changes to exterior building facades for multifamily and nonresidential development. Single –family detached residential uses, individual duplexes, and townhouses are exempt from building design elements when built to the single-family code. G.S. 160A-381.

910.1 **SITE ASPECTS**

1. Relationship of a building to its site.

- a) Building design shall be fitted to the natural contours of the site. Natural features of the site, such as rock outcroppings or natural drainage ways shall be preserved.
- b) On wooded sites, buildings shall be carefully situated to take advantage of the shade and energy conservation provided by the trees.
- c) The impression of buildings tucked into, rather than superimposed on, the natural landscape shall be created.
- d) The view of the building from the street and surrounding areas shall be as important as the view available to the buildings occupants.
- e) Buildings shall be located according to the natural characteristics of the site. In hilly terrain, clustering of buildings is encouraged as a strategy to avoid destroying sensitive natural areas.

- f) Buildings shall be designed to harmonize with the existing topography, thereby minimizing land disruption.
- g) Grading shall be held to a minimum and should complement natural landforms (such as smooth gradations or terracing).
- h) Use of retaining walls that retain more than five (5') in height of earth within a linear fifty (50') distance is required to be designed by a North Carolina registered engineer.

2. Relationships of the project to adjoining area.

- a) Building projects shall not be designed as isolated units, but instead shall reflect the context of the adjoining properties.
- b) Grading shall blend gently with contours of adjacent properties.
- c) Buildings at the ends of streets, or at street corners, shall serve as visual “terminals.” Serving to both unify and conclude the architectural statement made on the street.
- d) Proposed recreation areas or uses shall complement nearby existing uses. The extension of existing parks or recreation areas into a proposed development is a highly desirable design feature.
- e) Buildings or projects located near or adjacent to a greenway shall provide safe and efficient pedestrian connection to that greenway, and also to adjacent properties that might include pedestrian systems in the future.
- f) Buffer zones shall separate and protect the greenway, while at the same time connect it to the building site.
- g) Natural drainage patterns shall be preserved where possible. Changing the natural drainage areas will affect the drainage onto adjoining areas.
- h) Innovative building and site design can capitalize on natural drainage ways and transform steep slopes into major site amenities.
- i) Design shall insure that drainage occurs only in areas designed to serve a drainage function. Storm water should not flow over sidewalks, paths or streets.

3. Streetscape

- a) Scale is a major factor in creating a sense of community and a sense of place.
- b) The ratio between the width of the street corridor (as measured between opposing building facades) and the height of the “walls” of that corridor (the foundation-to-eaves dimension) plays an important role in creating a human scale in the streetscape. If the width exceeds the height more than four (4) times the sense of enclosure is diminished.
- c) The Village shall be focused on people rather than on vehicles. Streets shall be connections not separations.
- d) Reference Illustration “A”, for explanation of zones and transition areas that shall be addressed in the design of new streets.

4. Streets

- a) Difficult topography shall be avoided when locating and designing roads. For instance, roads are best placed along the contours of a site if the site is hilly or steep. This minimizes fuel consumption and noise in automobiles and provides a more comfortable access for pedestrians and bicycle riders. Consideration shall also be given to fire protection and emergency vehicles in order to facilitate access to any structure in case of any emergency.

- b) Roadways shall focus attention on interesting views and should not interfere with natural drainage patterns.
- c) The site plan should incorporate a hierarchy of roadways and walkways that provide for safe, smooth and pleasant movement of people and vehicles. Special attention shall be paid to points and which pedestrian, bicycle, and automobile movements are in conflict. Clearly marked crosswalks or routing of pedestrian paths away from main automobile traffic areas can reduce hazards in these areas.
- d) Whenever there is a design choice between access from the development to a street of a higher classification and access to a street or a lower classification, access should be to the street of lower classification.
- e) On large streets, landscaped median islands are encouraged and crosswalks shall be included.
- f) Trees, shrubs and other plants shall be planted along the streets in accordance to the setbacks established.

5. Sidewalks

- a) Building sites shall accommodate pedestrians and shall be centered around pedestrian traffic rather than vehicular traffic.
- b) Access must be safe and convenient within a site. Sidewalks must be clearly separated from driving areas and must connect buildings to each other, to parking areas and to adjacent pedestrian paths.
- c) Handicapped accessibility along walkways at street/driveway intersections shall be provided whenever possible, per NC State Building Code specifications.
- d) Sidewalk construction standards (including curb and gutter) shall follow the NC Department of Transportation Subdivision Roads Minimum Construction Standards.
- e) Walkways or sidewalks shall be provided along all public streets for commercial developments. Where intersections occur, pedestrian walkways shall be clearly marked with paint or contrasting surface material.
- f) The separation of sidewalks from the roadway for pedestrians' safety will be achieved by:
 - 1. Curbside planting strips
 - 2. Depressing or raising the walkway in relation to street level
 - 3. Providing parking adjacent to the walkway (on-street parking) as an additional barrier
- g) Especially around areas with interesting natural contours.
- h) Major commercial developments shall include a system for internal pedestrian movement. These internal walkways shall also be linked with the Village walkways, particularly to greenways and park.

6. Bicycles

- a) Bike lanes or sufficient room on the streets for bicyclists are very desirable. However, bike lanes do not have to parallel the street. Like sidewalks or walkways they should follow natural patterns.
- b) Businesses and organizations should recognize the needs of cyclists who may bicycle to work. These cyclists need convenient use of a bicycle rack.

910.2 **BUILDING DESIGN**

The following elements of building design shall be incorporated in new construction and renovations as noted in section 910.

1. Scale

Scale and proportion should reflect local traditions of mountain buildings. They should be oriented to the characteristic, simple residential buildings of the Village of Sugar Mountain. Texture of roof and wall finishes shall provide a scale or reference point for the pedestrian in proximity to the structure. In the

R-3, C-B, M-U, and R-C districts, where structures already exist on a subject property. The maximum wall height of any new structure connected to existing structures shall not exceed the highest wall of the existing structure.

a) Allowed:

- 35 feet height maximum from average natural slope to roof; existing contours shall be provided on the plat or site plans as part of the zoning permit application. Take the largest rectangle inside the footprint and find the midpoint of each wall. The spot where each of these lines intersect is the point where the measurement will be taken for the height of the building. (see illustration “B” on how to calculate the height of a building.)
- Harmony with landscape and surroundings
- Residential scale
- Structures using rectangular configurations
- Street front having sense of entry
- Use of stepbacks and architectural elements (windows, stairs, etc) to break up large masses of buildings.
- Pedestrian-oriented scale to Village of Sugar Mountain Landscaping and
- Planned Residential and Commercial Developments in the R-3 and M-U with connections to existing tall buildings (over 35 feet) allow for the principal building to be 60% of the footprint and any additional interconnected buildings cannot exceed the footprint by 40%, making the total footprint 100%.

b) Prohibited:

- Square or rectangular buildings in excess of 50,000 square foot of gross floor area, when constructed on an individual lot(s) and not a part of a Planned Commercial or Planned Residential Development containing less than three buildings in the R-3, C-B, M-U, or
- R-C zoning district.
- Continuous flat facades
- Round buildings

2. Exterior Materials

Exterior materials shall be selected for suitability to architectural style. For the mountain character of the Village of Sugar Mountain, this means using natural traditional materials such as wood and native stone. All sides of building should relate to each other. The front should not look substantially different from the other sides. The number of different materials on exterior finished should be limited.

a) Allowed:

- Use of materials native to mountain area
- Wood siding (painted, stained, or weathered)
- Wood shingles/shakes
- Native stone
- True log construction
- Log siding
- Exposed wood structural members
- Related trims
- Where materials change there should be a change in wall plane or some architectural device to give a sense of transition
- Cultured stone (faux stone)
- Bark siding
- Brick (allowed as accents for areas of detail – then the brick shall be of constant color and of the wood mold type, no blends)
- Stucco, for two (2) feet above grade only, or allowed as an accent for areas of detail
- All SSTM approved cement board, at the discretion of the Zoning Administrator or per requirement of the NC State Fire Code
- ASTM approved Commercial Grade Vinyl Siding in the C-B Zoning District only. (Siding must be a minimum of .044” grade and must be installed by someone who is certified by VSI or by a similar institution, manufacturer or supplier.)

b) Prohibited:

- Stucco, as an entire wall exterior finish
- Mix of materials unrelated to architectural form/structure
- Pre-form metal siding
- Exposed or painted concrete block
- Vinyl siding
- Artificial brick

- Reconstituted or manufactured wood materials
- Synthetic stucco
- T1-11 siding (plywood)
- Split face block
- Non-ASTM approved cement board

3. Roofs

Roofs are a major visible element and shall be compatible with both buildings and neighboring buildings architectural style. Similarities in roof type create a visual continuity in the streetscape and neighborhood. Roof shape, color and texture should be coordinated with the treatment of the buildings perimeter walls. Roofs with more than one place, and containing dormers, add variety to a building and break-up its size.

a) Allowed:

- Any pitched roof must be 6/12 to 12/12 slope
 - Large overhangs (minimum one (1) foot)
 - Fascia eight (8) inches minimum and/or exposed rafter tails
 - Gable or hip roofs
 - Large roof areas should have more than one place and be broken up with dormers
 - Roof pitches over porches and ancillary structures should be in keeping with principal building (minimum 3/12)
 - Flat roofs with parapet only in zoning districts R-3, C-B, M-U, and R-C
- Roof-top equipment specifications:
- Screen rooftop mechanical, electrical, and energy equipment from view of people on street
 - Energy collection equipment on street side is allowed when mounted on roofs with pitch, of similar color, and are mounted flush with the roof.
 - Grouping together of utility structures (vents, ducts, ...) and painted to match adjacent building surface
 - Exposed gutters and downspouts painted to match adjacent roof or wall material
 - Earth tone colors for roof materials
 - Traditional roof materials
 - Wood shakes/slate/metal roofs/fiberglass shingles/concrete tiles
 - Same materials on all principal parts of the roof
 - Asphalt composition shingles (artificial slate)

b) Prohibited:

- Flat roofs, with exception noted above

- Shed, gambrel, mansard roofs
- Low slopes (under 6/12 for main roof)
- Very steep slopes (over 12/12)
- Overhangs less than one (1) foot
- Brightly colored and unnatural looking roof material
- Roll felt roofing
- Corrugated plastic sheet material

4. Windows

Windows are the most important architectural element to unify a facade. They reflect the character of a building. However, windows not only add to the aesthetics of a building but also have to provide light and ventilation.

a) Allowed:

- Traditional shapes (forms of square, arches or rectangle)
- Forms of residential scale
- Multi-pane windows (use of muntins to divide glass into unified sections)
- Vertical windows
- Separate large windows (also for storefront windows)
- Separate large windows (including storefront) by columns

b) Prohibited:

- Horizontal windows
- Large undivided panes of glass
- Windows of dominant elements; a higher percentage of wall than window should exist on the facade. [Exception shall be made to retail establishments in the C-B districts which rely on pedestrian traffic].
- Floor to ceiling windows greater than one story
- Large horizontal strips of windows (ratio greater than 2:1) visible from the street
- Glass block visible from street
- Aluminum store front systems
- Reflective glass
- Plastic glazing materials
- Outside shutters and shutters windows visible from street

5. Color

Colors shall be natural and subdued (earth tones are recommended) and shall blend in well with the natural surroundings. Natural stains or paints that reflect the colors of natural materials should be dominant on large areas such as building facades and elevations.

Openings and entryways should be clearly expressed with changes of texture or color. Trim

color shall refer to any or all building's trim elements (such as eaves, soffits, overhangs, fasciae, windows, sills, gutters). Principal building and trim colors are subject to review, also for repainting and existing building. If the color for repainting matches the existing, then no permit will be required.

a) Prohibited:

- High gloss finishes
- Day-glow and fluorescent colors (except for as permitted above)
- Bright colors, including pastels that do not harmonize with natural materials and earth tone stains

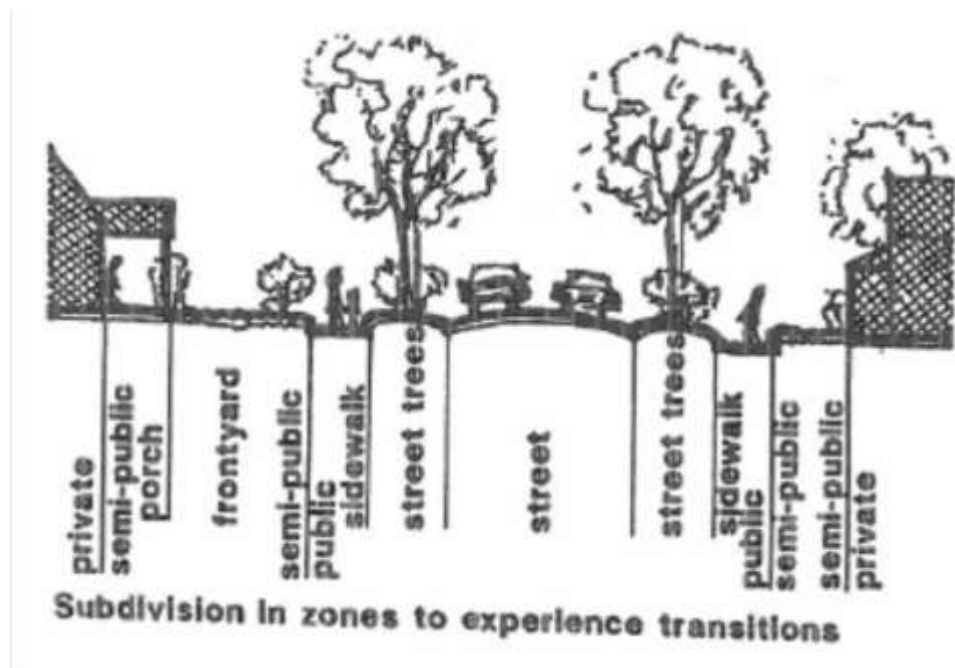


Illustration "A", Zones to Experience Transitions

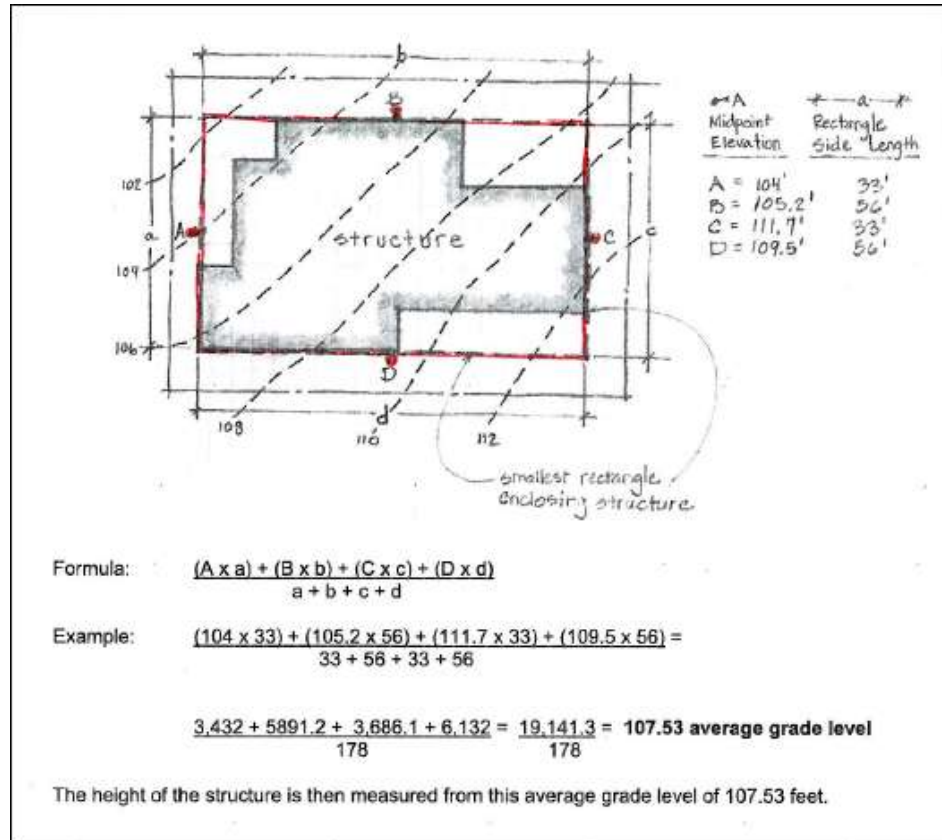


Illustration "B" on How to calculate the height of a building.

SECTION 911.

CULVERTS AND DRIVEWAYS

(Adopted 01-22-2019)

A. DEFINITION

- 1) Driveway. A private driveway, road, or other avenue of travel that runs through any part of a private parcel of land or that connects or will connect with any public road or street.

B. Any person wishing to open, construct, alter, or relocate any driveway or culvert must comply with the terms of this section.

- 1) Permit Requirement. No person shall locate, establish, construct, replace, modify, install, or substantially reconstruct a private driveway or culvert without first filing an application and obtaining a driveway or culvert permit from the Village of Sugar Mountain.
- 2) Application. Application for such permit may be made to the Village Clerk. The request for such permit shall be in writing signed by the owner of the real estate affected and shall include design specifications and a drawing depicting the location and orientation of the proposed driveway and driveway culvert in relationship to the real estate involved and the adjacent road, street, or highway.

3) Review. The Village shall review all applications under this section to ensure compliance with this ordinance.

4) Fee. The applicant shall pay a non-refundable application fee as set forth in the Village of Sugar Mountain Schedule of Fees.

C. With the exception of the R-3 Multi-Family Residential Zoning District, driveways shall be constructed at a minimum distance of 5 feet from the adjacent property line.

D. No person shall locate, establish, construct, or substantially reconstruct any driveway or private road in a public right-of-way of the Village of Sugar Mountain without installing a culvert in full compliance with this section.

E. Any person who installs a culvert under this section shall be solely responsible for the cost, maintenance, upkeep, and care for that culvert.

F. Any person who constructs a driveway or installs a culvert under this section shall be responsible for repairing any damage to the sidewalk, street, or roadway caused by the construction.

G. Culverts shall be constructed of corrugated metal or corrugated double wall plastic with a minimum diameter of 18 inches.

TREE PROTECTION & PRESERVATION FOR DEVELOPED LOTS

SECTION 912.

(Adopted December 18, 2018)

a) Purpose

The regulations of this ordinance are intended to reduce tree canopy loss and implement urban forest improvements through requirements for tree protection, tree preservation, and planting or replanting of trees, and the maintenance of existing trees within the Village of Sugar Mountain. The tree preservation requirements are intended to enhance the quality of life through sustainable urban forest practices and increase benefits that trees provide, including, but not limited to the following:

1. Preservation, protection and enhancement of the natural environment
2. Provision of habitat for wildlife.
3. Maintenance and improvement of the Village appearance and aesthetics.
4. Improvement of storm water runoff.
5. Screening of noise, dust and glare.
6. Provision of shade for cooling.
7. Reduction of soil erosion and the increase of rainwater infiltration.
8. Absorption of carbon dioxide and returning oxygen.

b) Administration

To carry out the provisions of the Section, the Zoning Administrator shall have the responsibility and control over all trees and shrubbery planted or growing in or upon Village property.

c) Definitions of particular significance to Tree Protection:

Diameter at Breast-Height (DBH): A tree trunk diameter measured in inches at a height of four and one half (4 ½) feet above the ground. If a tree splits into multiple trunks below four and one half (4 ½) feet, then each trunk is measured as a separate tree. A tree that splits into multiple trunks above four and one half (4 ½) feet is measured as a single tree at four and one half (4 ½) feet. Diameter can be determined by dividing the circumference of the tree trunk at four and one half feet above the ground by 3.14.

Historic Tree: A tree with a diameter at Breast Height (DBH) OF TWENTY-FOUR (24) INCHES OR GREATER. Every effort should be made to retain healthy historic trees.

Protected Tree: A live tree measuring in excess of six (6) inches in diameter at four and one-half feet (4 ½) feet above ground.

Removal of Trees: Any intentional or negligent act that shall cause a tree to decline and die, including but not limited to:

1. Pruning
2. Cutting
3. Damage inflicted upon the root system of a tree by application of a toxic substance, operation of machinery, change of natural grade by excavation or filling about the root system or around the trunk of a tree, or injury by fire that result in or permit pest infestation.

Significant Tree: A tree with a DBH of six (6) inches or greater

Tree Removal/Pruning Permit: A permit for tree removal and/or pruning issued under the provision of this Ordinance.

d) Tree Protection Requirements

1. Jurisdiction

The regulations set forth herein shall apply to all real property within the Village Limits and Extra Territorial Jurisdiction, subject to the following exceptions: utility companies, electric suppliers, and governmental agencies in the course of construction or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmissions, or rights-of-way.

2. Tree Removal Prohibited

No person firm, organization, society, association, corporation, or any agent or representative thereof shall directly or indirectly destroy or remove any trees in excess of six (6) inches DBH within any zoning district without permission under the provisions of the Ordinance.

3. Application and Scope

The process for applying the Tree Protection Section of this Ordinance shall be as follows:

All persons desiring to prune, crop, scale, or shape a protected tree(s) shall apply for a Tree Removal/Pruning Permit through the Zoning Administrator. Tree limbs of 3" or less in diameter may be pruned without a permit.

The Zoning Administrator or his/her designee may issue and approve a Tree Removal/Pruning Permit.

Lots that contain a majority of trees less than six (6) inches DBH shall not be clear-cut. No more than fifty percent (50%) of the natural vegetation, equally balanced on the lot, can be cut regardless of the size of the vegetation. The Zoning Administrator shall base approval on the criteria listed in this Article.

Trees shall not be topped. However, limbs may be removed for improving views as long as the health of the tree is not damaged. Detrimental trimming is prohibited. Property owners are encouraged to use an ISA Certified Arborist to prune and remove trees and utilize the drop/crotch pruning technique.

Public Property Trees: In determining whether a permit shall be issued for the cutting of trees on public property, the Zoning Administrator shall consider the following:

- a) The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services.
 - b) The necessity to remove trees in order to construct proposed improvements to allow economic development of property adjacent to public property.
 - c) The topography of land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters, and coordination with the Village's drainage patterns.
 - d) The effects of tree removal regarding property values in the area.
- e) General Standards for Removal and Retention

It is the desire of the Village of Sugar Mountain to preserve all existing trees to the greatest extent possible. Permits for removal of protected trees may be approved and issued where one (1) or more of the following conditions are found to exist:

1. Said trees are within ten (10) feet of an area designated for the construction of an approved primary or accessory structure on a lot, including designated walkways, driveways and parking area; or
2. Said trees are within five (5) feet of an approved septic tank or septic drain field; or
3. Said trees pose a hazard to the property owner, adjacent property, utility lines or public health and safety; or
4. Selective cutting of said trees, observing property trunk spacing in accordance with best managements practices, promotes the growth and development of other trees on the lot; or
5. Said trees are diseased or damaged; or
6. Removal of said tree(s) is the only reasonable means by which building, zoning, subdivisions, healthy, public safety, or other Village requirements can be met.

f) General Considerations

1. Emergency Conditions

In the event that any tree shall be determined to be an imminent hazard or danger to the public health, safety, or general welfare by the Zoning Administrator or his/her designee, that tree can be removed regardless of the size of the tree.

2. Violations Defined

- a) Lacking a valid Tree Removal/Pruning Permit, any intentional or negligent act resulting in the death of a protected tree, including but not limited to those defined in Section 10(b) of this Article.
- b) Lacking a valid Tree Removal/Pruning Permit, the pruning of any protected tree, except as allowed under the provisions of Section 10(f) of this Article.
- c) All waste from tree removal and/or tree pruning activities that accumulate on public property shall be removed at the end of each day of tree removal or pruning. All waste from tree removal and/or tree pruning activities that accumulate on private property shall be removed within three (3) working days after the day of completion if the work has been contracted out. If the homeowner does the removal/pruning, they must remove the debris or put the debris in a place accessible by the Village and the Village will remove no more than one (1) truckload. Additional truck loads will be removed at a cost of \$75.00 per load. The homeowner must notify the town within 3 days. Failure to comply with these stipulations shall constitute a violation.

If violations are noted during the course of a project or at final inspection, the Zoning Administrator may take appropriate actions including, but not limited to:

- a) Requiring replacement of illegally removed trees with trees no smaller than six (6') feet high and of the same type (evergreen or deciduous) as the trees removed.

- b) Replacement of protected trees that are damaged, dying or dead with trees no smaller than six (6') feet high and of the same type (evergreen or deciduous) as the trees damaged.
 - c) Remedial actions to protect trees during construction.
- g) Penalties Defined**
- Pursuant to North Carolina General Statutes 160A-175(b), a violation of any provision of Section 912, Tree Protection, shall subject the offender to a civil penalty in the amount of \$500.00 per tree to be recovered by the Village. Violators shall be issued a written citation, which must be paid within ten (10) days after receipt of the written citation. If the violator does not pay the penalty within ten (10) days after receipt of the written citation, the Village may recover such penalty in a civil action in the nature of a debt. In addition, trees removed without approval are subject to a requirement that they shall be replaced with two (2) six foot (6') tall, two inch (2") in caliper trees for each tree illegally cut. Such replacement trees shall include but not be limited to the following list:

Botanical Name	Common Name
Acer Rubrum	Red Maple
Acer Saccharum	Sugar Maple
Betula nigra	River Birch
Betula papyrifera	White Paper Birch
Sorbus aucuparia	Mountain Ash
Cornus Kousa – varieties	Kousa Dogwoods
Picea abies	Norway Spruce
Tsuga Canadensis	Canadia Hemlock
Picea pungens	Blue Spruce
Oxydendrum	Sourwood, native

- h) Enforcement**
- In the case of a Tree Removal/Pruning Permit issued for a new construction site, the Zoning Administrator, prior to the issuing of a Certificate of Zoning Compliance, shall ensure the inspection of the site to determine if all 'not-to-be removed,' 'protected trees' are still standing and healthy. If such is not the case, the Certificate of Zoning Compliance will not be issued until appropriate enforcement of the Ordinance has taken place.

ARTICLE X EXCEPTIONS AND MODIFICATIONS

Compliance with the requirements of this ordinance is mandatory except that under the specific conditions enumerated in the following sections the requirements may be waived or modified in due process by the Board of Adjustment as so stated:

SECTION 1000. Deleted, but reserved for future purposes.

(Amended 10-7-1986)

SECTION 1001. Deleted, but reserved for future purposes. *(Amended 10-7-1986, 2-3-1987) (Deleted 3-19-1991)*

1001.1 **Fences.** *(Amended 2-3-1987)*

The Board of Adjustment may, upon appeal, permit a property owner to construct a fence which exceeds the height limitations and which is constructed of materials not otherwise permitted in Chapter 1, Article XIV, Section 1401 and Article V, Section 508; provided the fence is required for the protection of the health and safety of persons and property living or visiting the property owner or his agent shall submit a justification for the fence and provide the Board a scale drawing of the property, the proposed fence and indicate the height, design and materials.

SECTION 1002. TRAVEL TRAILERS *(Amended 01-22-2019)*

A. DEFINITIONS

Travel Trailers. Any vehicle, recreation vehicle, trailer, or similar portable structure, with or without its own motive power, designed or constructed to be driven, towed, or carried on the public streets and designed or constructed to permit a temporary occupancy for living and sleeping purposes.

Properly Buffered. Natural live-plant screening located at least 5 feet from the property line such that the travel trailer is screened from view or covered at a minimum of 80% of the visible portion of the travel trailer, along three sides (which shall include the two longest sides of the vehicle). Screening shall be accomplished by planting live evergreen trees along three sides of the travel trailer if the travel trailer is visible from adjacent or abutting properties. Except where screening would limit legal access to a street, screening must be provided between travel trailers and public streets.

B. Travel trailers, houses mounted on self-propelled or drawn vehicles, tents or other forms of portable or temporary housing may be kept in properly buffered areas at a residential dwelling so long as the following guidelines are adhered to:

- (a.) They are kept for purposes of storage until future use.
- (b.) That they are unoccupied as long as they remain at the lot.
- (c.) They may not be kept on a vacant lot or property not occupied by the owner's residence.

C. If the buffer area is to be located along a road or street, whether public or private, foliage cannot extend into the street or obstruct sight lines around curves or from intersections such that it would cause a danger or inconvenience to vehicular or pedestrian traffic on said road or street.

SECTION 1003.

MOBILE HOMES

It shall be unlawful for any person to park or locate, place, maintain or use any mobile home within the limits of the Village of Sugar Mountain, either occupied or unoccupied except in those areas so designated by special use permits issued by the Board of Adjustment.

CHAPTER I ZONING

SECTION 1004.

RIGHTS-OF-WAY

Street and Highway rights-of-way shall not be determined as part of a lot or any required yard or open space.

SECTION 1005.

LOT SIZE

(Deleted 1-7-1986)

SECTION 1005. SUBDIVISION IN RESIDENTIAL PLANNING UNIT DEVELOPMENTS

(Added 9-1-1992, Amended 7-15-2008)

Subdivisions of land within a Residential Planned Unit Development (RPUD) may be permitted, provided the following standards and requirements are met:

- (1.) The minimum lot area and dimensional requirements of the subdivision ordinance may be waived, provided the applicant for the (RPUD) shall submit a preliminary plat for approval with the site plans and supportive documentation.
- (2.) The preliminary subdivision plat, submitted with the site plans and documentation for the (RPUD) shall be reviewed in accordance with the procedures and requirements of Chapter 12, Section 303 of the Subdivision Ordinance. Except as otherwise provided, the improvements and minimum requirements shall substantially conform to Chapter 12, Article IV of the Subdivision Ordinance. The Planning Board and Village Council may require that other provisions of the subdivision ordinance apply to the proposed subdivision, including Article II.
- (3.) No subdivision or sale of land within a (RPUD) shall be permitted until said development is completed, or until an approved scheduled phase of the development is completed, and a final plat has been approved and recorded for all or a scheduled phase of the development. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulations or recorded with the register of deeds, provided such is done in compliance with G.S. 160A-375, as amended. *(Amended 7-15-2008)*

SECTION 1006.

CLUSTER SUBDIVISIONS

(Added 9-1-1992)

Cluster subdivisions may be permitted in the R-1 and R-2 zoning districts in accordance with the provisions of this section and the requirements of the subdivision ordinance.

(1.) **Location and Permitted Uses.**

Cluster subdivisions are permitted in the R-1 and R-2 districts. Within a cluster subdivision, permitted uses are limited to the specific permitted uses allowed in the district where the subdivision is located.

(2.) **Minimum Size of Cluster Subdivision.**

The minimum size of a cluster subdivision shall be five acres, exclusive of any street right-of-way.

(3.) **Minimum Lot Size and Dimensional Requirements.**

Within a cluster subdivision, the minimum lot size and dimensional requirements of the zoning ordinance and subdivision ordinance are waived, provided all provisions for open space dedication and the required approvals of water and sewer systems conform with the requirements of all applicable codes, ordinances and policies. A minimum setback of thirty (30') feet from any adjacent street right-of-way and twenty-five (25') feet from any exterior property line of the cluster subdivision.

(4.) **Open Space Requirements.**

A minimum amount of permanent open space shall be provided in any cluster subdivision in any amount equal to or greater than the total square foot reduction in all lots, but in no case less than one contiguous acre. The open space shall be dedicated for open space use, owned, and maintained by a property owners association. An instrument providing for the dedication, ownership and maintenance of the open space shall be submitted with the preliminary plat. In calculating open space requirements, a cluster subdivision shall exclude the property acreage in any road right-of-way and bodies of waterway.

The required open space shall be located on land contiguous to and geographically situated within the subdivision.

(5.) **Utilities.**

Cluster subdivisions are required to have access and utilize water and sewer service from a community water and sewer system.

ARTICLE XI ADMINISTRATION AND ENFORCEMENT

SECTION 1100.

INTENT

It is the intent of this article that all questions arising in connection with the enforcement or the interpretation of this ordinance shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only to appeal decisions from the Zoning Administrator, and that from the decisions of the Board of Adjustment, recourse shall be taken to the courts as provided by law. It is further the intent of this article that the duties of the Village Council in connection with this ordinance shall not include hearing and passing on disputed questions which might arise in connection with the enforcement or interpretation of this ordinance, but the procedures for determining such questions shall be as stated in this ordinance. The duties of the Village Council in connection with this ordinance shall be the duty of holding a public hearing and voting upon any proposed amendment or repeal of this ordinance as provided by law, and the review and approval or disapproval of certain matters as specifically stated in this ordinance.

SECTION 1101.

ZONING ADMINISTRATOR

The office of the Zoning Administrator is hereby established. The Village Council of the Village of Sugar Mountain shall appoint some suitable person to such office; any person so appointed shall be employed at such salary and other compensation as may be set by the Village Council, and shall serve at the pleasure of the Council. It shall be the duty of the duly appointed Zoning Administrator to render such council and advice to the Planning Board as may be reasonably be requested by the said Board, and to perform such duties in connection with this Zoning Ordinance and the planning and enforcement thereof as may be required by the Village Council.

SECTION 1102.

PERMIT PROCEDURES

The Village of Sugar Mountain coordinates the enforcement of the Sugar Mountain Zoning Ordinance with the Avery County Inspections and Building Permit system. The Village of Sugar Mountain enforces the zoning ordinance through the issuance of a Certificate of Zoning Compliance and a Certificate of Occupancy, except as otherwise provided in this ordinance. The Avery County Inspections Department is authorized to issue building permits and enforce all applicable state building codes in the Village of Sugar Mountain. (*Amended 8-7-1990*)

SECTION 1103.

CERTIFICATE OF ZONING COMPLIANCE

Prior to both the issuance of a Certificate of Zoning Compliance by the Sugar Mountain Zoning Administrator and the issuance of a Building Permit by the Avery County Inspections Department, no building or other structure may be erected, moved, extended, enlarged or

structurally altered, or any excavation or filling of any lot for the construction of any building be commenced until the Sugar Mountain Zoning Administrator has issued a Certificate of Zoning Compliance for such work. The Zoning Administrator shall not grant a Certificate of Zoning Compliance for the construction or alteration of any building or structure of the building or structure as proposed to be constructed or altered would be in violation of any provision of this ordinance. The Zoning Administrator shall verify that the proposed building or structure meets all dimensional requirements of this ordinance in accordance with the information contained in the application and on inspection of the site. *(Amended 8-7-1990)* Recognizing that the preservation of existing trees provides numerous benefits to the community, the Village Council is implementing tree preservation regulations. The primary goal is to preserve, at a minimum, twenty (20%) percent of the existing tree canopy on properties targeted for development. To achieve the Village's tree preservation goals, your elected officials need the support of the citizens in the community. For all practical purposes, the preservation and care of these privately-owned trees is up to the residents of the community. No person, directly or indirectly, shall remove any tree greater than four inches (4") in diameter from applicable public or private property until the Zoning Administrator has issued a Zoning Compliance Permit for the construction of any dwelling unit. Trees may be removed for areas designated as driveways, or those necessary for installing utilities. *(Added 2-17-2009)*

1103.1 **Application for Certificate of Zoning Compliance.**

All applicants for Certificates of Zoning Compliance shall be accompanied by plans, submitted in duplicate to the Zoning Administrator. The Application and supporting plans and documentation shall include site plans drawn to scale, accurately showing the following information:

- (1.) Property lines and corners;
- (2.) Building setback lines and required yard areas;
- (3.) Existing building and structures;
- (4.) Utility easements, rights-of-way, culverts and drainage ways;
- (5.) Location of all utility lines and facilities on the lot;
- (6.) Shape, size, use, and location of proposed buildings and structured to be erected or altered on the lot; and
- (7.) Other information required or necessary to provide for the enforcement of the provisions of this ordinance.
- (8.) Location of any land clearing, or tree removal associated with structures and other improvements, such as dwellings, parking areas, paths, walkways, driveways, water lines, sewer lines or other utilities, garden areas and the like. *(Added 2-17-2009)*

- (9.) Location of additional areas proposed for clearing or thinning for the purpose of grading, patios, views, etc. *(Added 2-17-2009)*
- (10.) Location of trees to be saved and/or the locations where trees will be planted. *(Added 2-17-2009)*
- (11.) Construction Progress. If no substantial construction progress has been made within six (6) months of the date of issuance of the Certificate of Zoning Compliance, the Village Zoning Administrator may require the owner to replant tree(s) that have been removed, consistent with the requirements in Table 1. *(Added 2-17-2009)*

1103.2 **Issuance of Certificate of Zoning Compliance.**

The Zoning Administrator shall review the application and all supporting documentation for conformance with the provisions of the ordinance and shall inspect the site to verify that the building or structure will meet all area and dimensional requirements. In order to perform this verification, it will be necessary that:

- (1.) Property corners shall be permanently marked with iron pins or concrete monuments by a surveyor licensed in North Carolina. The corners shall be flagged or marked for easy identification and verification of the building location by the Zoning Administrator.
- (2.) The location of the proposed structure shall be marked by means acceptable to the Zoning Administrator.

Once the Zoning Administrator has verified the application and the site meets all requirements, he shall issue a certificate of zoning compliance. One (1) copy of all documents shall be retained by the Zoning Administrator.

1103.3 **Display of Certificates.**

The Certificate of Zoning Compliance and the Building Permit shall be displayed prominently on the temporary pole or on the job site's power source electric meter box, and made readily available for inspection during the normal working hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

1103.4 **Fees.**

The Village Council may establish a fee for the issuance of certificates of zoning compliance. *(Amended 9-7-1990)*

1103.5 **Construction Progress.**

If no substantial construction progress has been made within six (6) months of the date of issuance of the certificate of zoning compliance, or if the work authorized is suspended for a period of one (1) year, the certificate becomes invalid. *(Amended 8-7-1990)*

1103.6 **Status of Ineligibility for Permits.**

Any and all applicants that have been responsible for damage to Village infrastructure and/or has an outstanding balance with the Village of Sugar Mountain shall be deemed ineligible to be granted any further permits within the Village of Sugar Mountain until such time that such balances and/or damages have been fully paid and or rectified. Likewise, any applicant contracting with a person and/or company who has been responsible for causing damage to the Village infrastructure and/or has an outstanding balance with the Village of Sugar Mountain shall also be denied issuance of any permits within the Village of Sugar Mountain until such time that such balances and/or damages have been fully paid and/or rectified. *(Approved 1-20-1998)*

SECTION 1104.

BUILDING PERMIT

A building permit for a building or structure to be erected, moved, extended, enlarged or structurally altered, or for the excavation or filling of any lot for the construction of any building shall be obtained from the Avery County Inspections Department. Prior to obtaining a building permit, an applicant must have received a certificate of zoning compliance from the Village of Sugar Mountain Zoning Administrator. *(Amended 8-7-1990)*

SECTION 1105.

CERTIFICATE OF OCCUPANCY REQUIRED

A Certificate of Occupancy is required from the Sugar Mountain Department of Planning and Inspections in advance of:

- Occupancy or use of any land or any building erected, altered, or moved.
- A chance of use of any building, structure or land.

In addition, a Certificate of Occupancy shall be required for each nonconforming use created by the passage of any subsequent amendments to this ordinance.

1105.1 **Application and Issuance of a Certificate of Occupancy.**

A Certificate of Occupancy, either for the whole or part of a building, shall be applied for coincident with application for a certificate of zoning compliance and shall be issued after the erection of structural alteration of such building or part shall have been completed in conformity with the provisions of this ordinance, and all construction inspections required by the Avery County Inspections Department have been satisfactorily completed. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. The Zoning Administrator shall inspect the building upon receipt of the final inspections notification of the Avery County Inspections Department. The

Zoning Administrator shall verify that the building meets all applicable provisions of the Zoning Ordinance.

1105.2 **Remedies.**

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or any building or land is used in violation of this ordinance, the Zoning Administrator, or any other appropriate town authority, or any person who might be damaged by such violation, in addition to other remedies, may institute an action for injunction, mandamus, or other appropriate section or proceeding to prevent such violation.

SECTION 1106. ENFORCEMENT AND PENALTIES FOR VIOLATION

1106.1 This ordinance is subject to enforcement under Chapter 22 of the Code of Ordinances.

1106.2 Failure to obtain the correct permits from the office of the Village of Sugar Mountain Zoning Administrator shall subject the property owner to a fine in the amount of \$100.00 for each offense. Each permit shall be regarded as a separate and distinct offense. Each day shall also constitute a separate offense. A list of permits covered by this section shall include, but not limited to the following:

- Zoning Compliance Permit for Building,
- Zoning Compliance Permit for Land Clearing,
- Building Material and Paint Color Permits, and
- Future permits that may be deemed necessary by Village Council

(Approved 12-16-1997) (Amended 8-20-2013)

*(Sections 1102, 1103, 1103.3, 1103.4, 1103.5, 1104, 1105, 1105.1
Amended 10-6-1987; 1-7-1992, 08-20-2013)*

ARTICLE XII BOARD OF ADJUSTMENT

§ 1200. ESTABLISHMENT OF BOARD OF ADJUSTMENT

The Village Council of the Village of Sugar Mountain hereby establishes the Sugar Mountain Board of Adjustment. Members of the Board shall be appointed by the Village Council. The Board shall constitute, function, and may be referred to as the Sugar Mountain Board of Adjustment. (Amended 10-16-2007).

§ 1201. APPOINTMENT AND TERMS OF BOARD OF ADJUSTMENT.

(A) There shall be a Board of Adjustment consisting of five regular in-town members, two regular extra-territorial jurisdiction members, and three alternate in-town members, and two alternate extra-territorial jurisdiction members. Five (5) regular members of the Board shall be citizens of the Town of Sugar Mountain and shall be appointed by the Village Council, and two (2) regular extra-territorial jurisdiction members shall be appointed by the Avery County Board of Commissioners and shall be a citizen of the extraterritorial area outside the town limits. The Town Council shall appoint three alternate members for the municipalities' regular members and the Avery County Board of Commissioners shall appoint two (2) alternate members for the extraterritorial members. Alternates shall serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Each alternate, while attending any regular or special meeting of the Board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. Extra-territorial jurisdiction members shall only serve on matters involving property located within the extra-territorial jurisdiction. All members shall be residents of the Village of Sugar Mountain or its extra-territorial jurisdiction, respectively.

(B) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only.

(C) Members may be reappointed to successive terms without limitation.

(D) Unless the Village Council takes specific action to excuse the absences and reappoints a member after being informed by the Administrator of the member's failure to attend, regular Board of Adjustment members may be removed for failure to attend three consecutive meetings or for failure to attend 50% of the regular meetings in any 12-month period. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. Alternate members may likewise be removed for failure to attend or participate in three consecutive meetings for which the member's attendance is requested. The Administrator shall notify in writing any member for whom one more absence will trigger removal. In addition, the Administrator or a member of the Village Council may propose removal of a member for any other good cause related to the performance of Board duties, but before removal on that basis, the member shall be given an opportunity to appear before the Village Council to address the issues involved.

(E) If a regular or alternate member moves outside the jurisdiction of the Village that shall constitute a resignation from the Board.

§ 1202. MEETINGS OF THE BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action as expeditiously as reasonably as possible.

(B) The Board shall conduct its meetings in accordance with the quasi-judicial procedures.

(C) All meetings of the Board shall be open to the public, and whenever feasible the agenda for each Board meeting shall be made available in advance of the meeting.

(D) Compensation for service on the Board of Adjustment may be set by the Village Council, and maybe changed at any time. No compensation will be paid for periods in which no meetings have occurred.

§ 1203. QUORUM.

A quorum shall consist of four members of the Board, and shall be necessary for the transaction of any business. The Board shall not pass upon any questions relating to an appeal from a decision, order, requirement, or determination of the Zoning Administrator, or an application for a variance or Conditional Use Permit when there are less than four members present. In those cases where the chapter requires a four-fifths favorable vote of the Board, a continuance shall be offered to the parties to obtain the presence of a full board if feasible based upon vacancies and existing membership.

§ 1204. VOTING.

(A) The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For purposes of this section, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(B) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with division (C) below or has been allowed to withdraw from the meeting in accordance with division (E) below.

(C) A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected person's constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to:

(1) A member having a fixed opinion prior to hearing the matter that is not susceptible to change.

- (2) A member having undisclosed ex parte communications.
- (3) A member having a close familial, business, or other associational relationship with an affected person.
- (4) A member having a financial interest in the outcome of the matter.
- (D) If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- (E) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (F) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (G) A roll call vote shall be taken upon the request of any member.

§ 1205. BOARD OF ADJUSTMENT OFFICERS.

- (A) At its first regular meeting in January, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairperson and preside over the Board's meetings and one member to serve as vice-chairperson. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the Board membership (excluding vacant seats).
- (B) The chairperson or any member temporarily acting as chairman may administer oaths to witnesses coming before the Board.
- (C) The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.
- (D) The chairperson or vice-chairperson may make or second any motion.

§ 1206. POWERS AND DUTIES OF BOARD OF ADJUSTMENT.

- (A) The Board of Adjustment shall hear and decide:
 - (1) Appeals from and review any order, decision, requirement, or determination made by the Administrator.
 - (2) Applications for Conditional Use Permits.
 - (3) Applications for variances.

(4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines.

(5) Any other matter the Board is required to act upon by any other Village ordinance.

(B) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this subchapter.

(C) The Board of adjustment may subpoena witnesses and compel the production of evidence.

§ 1207. APPEALS TO THE BOARD OF ADJUSTMENT.

(A) An appeal from any final order, requirement, decision or determination or part thereof made by the Administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Administrator a properly filled out and signed application form and payment of the applicable fee. The fee shall be reimbursable in the event that the Board of Adjustment wholly reverses the order, requirement, decision or determination of the Administrator or part thereof which is being appealed.

(B) An appeal must be taken within 30 days after the date of the receipt of any final order, requirement, decision or determination appealed from. Unless established at an earlier date by a return receipt for a certified mail notice, the date of receipt shall be conclusively presumed as three days after the notice of the decision or order appealed from has been deposited in the United States mail with proper postage affixed, and addressed to the aggrieved party.

(C) Whenever an appeal is filed, the Administrator shall forthwith transmit to the Board of Adjustment the written notice of appeal and all the papers constituting the record relating to the order, requirement, decision or determination appealed from.

(D) An appeal stays all actions by the Administrator seeking enforcement of or compliance with the order, requirement, decision or determination appealed from, unless the Administrator certifies to the Board of Adjustment that (because of facts stated in the certificate) a stay would, in his or her opinion, cause imminent peril to life or property, or that because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this subchapter. In that case, enforcement proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Administrator and all other persons who have qualified as parties under the duly enacted Rules of Procedure of the Board of Adjustment.

(E) The Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order; requirement, decision or determination appealed from, and shall make any order, requirement decision or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the Administrator from whom the appeal is taken.

§ 1208. VARIANCES.

(A) An application for a variance shall be submitted to the Board of Adjustment by filing a properly filled out and signed Application Form with the Administrator and payment of the applicable fee.

(B) When unnecessary hardship would result from carrying out the strict letter of this section, the Sugar Mountain Board of Adjustments shall vary any of the provisions of this section upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; and

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(C) No change in permitted uses may be authorized by variance.

(D) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

§ 1209. ADDITIONAL REQUIREMENTS FOR VARIANCES WITHIN WATER SUPPLY WATERSHEDS.

(A) The Administrator shall notify in writing each local government having jurisdiction in the watershed district as well as any entity using the watershed for water consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Administrator prior to a decision by the Board of Adjustment. Such comments shall become a part of the record of proceedings of the Board of Adjustment.

(B) If the application calls for the granting of a major variance, and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

(1) The variance application;

(2) The hearing notices;

- (3) The evidence presented;
- (4) Motions, offers of proof, objections to evidence, and rulings on them;
- (5) Proposed findings and exceptions; and
- (6) The proposed decision, including all conditions proposed to be added to the permit.

(C) The preliminary record shall be sent to the NC Environmental Management Commission for its review as follows:

(1) If the commission concludes from the preliminary record that the variance qualifies as a major variance and that [i] the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and [ii] the variance, if granted, will not result in a serious threat to the water supply, then the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a commission decision and send it to the Board of Adjustment. If the commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that [i] the property owner can secure a reasonable return from or make a practical use of the property without the variance or [ii] the variance, if granted, will result in a serious threat to the water supply, then the commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

(D) A record of all variances granted within water supply watersheds by the Village shall be submitted the NC Environmental Management Commission on or before January first of the year following the granting of the variance.

§ 1210 INTERPRETATIONS.

(A) The Board is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions.

(B) An application for a map interpretation shall be submitted by filing the application with the Administrator. The application shall contain sufficient information to enable the Board to make the necessary interpretation.

(C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams or railroads shall be construed to follow such centerlines;

(2) Boundaries indicated as approximately following lot lines, corporate limits, or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries;

(3) Boundaries indicated as following shorelines or the centerlines of streams, rivers, lakes, or other bodies of water shall be construed to follow such shorelines or centerlines, and in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;

(4) Boundaries indicated as approximately following designated limits of areas of special flood hazard shall be construed as following such limits;

(5) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map;

(6) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

§ 1211. BURDEN OF PROOF.

(A) When an appeal is taken to the Board of Adjustment, the burden of proof and burden of persuasion shall be on the party appealing the order, requirement, decision or determination, but the Administrator or his or her designee shall be present to participate in the hearing and to answer such questions as may be directed to him or her by members of the Board of Adjustment, or by any party duly participating in the hearing, in compliance with the duly adopted Rules of Procedure of the Board of Adjustment.

(B) The burden of presenting evidence sufficient to allow the Board of Adjustment to make its necessary findings on the criteria set forth above, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

§ 1212. BOARD ACTION.

(A) The Board of Adjustment shall decide any appeal before it in compliance with the procedures set out in its duly adopted Rules of Procedure.

(B) A motion to deny a variance may be made on the basis that any one or more of the criteria set forth for determining a variance are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (i.e. two or more Board members).

(C) Before granting a variance, the Board must take a separate vote and vote affirmatively by a four-fifths majority on each of the seven required findings set forth in § 1208. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in § 1208 shall include a statement of the specific reasons or findings of fact supporting such motion.

§ 1213. ACTION SUBSEQUENT TO DECISION.

(A) The decision of the Board shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy. A copy of the decision shall also be placed in the office of the Development Services Department.

(B) If a variance is granted, the nature of the variance and any conditions attached thereto shall be entered on the face of the zoning permit.

(C) If a Conditional Use Permit is granted, the terms and conditions of the Conditional Use Permit shall be entered on the face of the zoning permit.

§ 1214. APPEALS FROM BOARD DECISION.

Every decision of the Board shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the written decision of the Board is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairperson of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested. (N.C.G.S. § 160A-388(e)(2)).

§ 1215. INTERVENTION.

(A) Any individual or organization who wishes to intervene as a party to any matter before the Board of Adjustment shall complete an application to intervene upon a form which may be obtained from the Zoning Administrator. Such application shall state the proposed intervenor's interest relating to the property or hearing, any practical impairment of the protection of that interest if not allowed to intervene as a party, and whether there is inadequate representation of that interest by existing parties. Such application shall be filed with the Zoning Administrator at least 24 hours prior to the scheduled time for the hearing of the matter before the Board. The Board may waive the deadline for the filing of this application upon good cause being shown for the failure to timely file to intervene.

(B) Upon a hearing on the motion to intervene, the Board of Adjustment shall determine whether intervention is appropriate.

§ 1216. EXTRATERRITORIAL JURISDICTION

(A) All of the powers granted by N.C.G.S. Chapter 160A, Article 19 et seq., may be exercised by the Village of Sugar Mountain within its corporate limits. In addition, the Village of Sugar Mountain may exercise the aforementioned powers within a defined area extending not more than one (1) mile beyond its limits. With the approval of the Avery County Board of Commissioners and the Village of Sugar Mountain Board of Adjustment, once the population of the Village of Sugar Mountain exceeds a population of more than ten thousand (10,000) but less than twenty-five thousand (25,000), the powers granted by N.C.G.S. Chapter 160A, Article 19, over an area may be extended not more than two (2) miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in N.C.G.S. Chapter 160A, Article 19 et seq. However, the Village of

Sugar Mountain may not exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. In determining the population of the purposes of this Ordinance, the Village of Sugar Mountain Board of Adjustment may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration.

(B) When planning to exercise extraterritorial jurisdiction under this Ordinance shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the Avery County tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the Avery County tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a public hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in N.C.G.S. § 160A-364, and the right of all residents of the area to apply to the Avery County Board of County Commissioners to serve as a representative on the planning board and the Village of Sugar Mountain Board of Adjustment, as provided in N.C.G.S. § 160A-362. The notice shall be mailed at least four (4) weeks prior to the public hearing. The person or persons mailing the notices shall certify to the Village Council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

(C) When the Village of Sugar Mountain annexes, or extends its jurisdiction to include, an area that is currently being regulated by Avery County, the regulations and powers of enforcement for Avery County shall remain in effect until (i) the Village of Sugar Mountain has adopted such regulations, or (ii) a period of sixty (60) days has elapsed following the annexation, extension or incorporation, whichever is sooner. During this period the Village of Sugar Mountain may hold hearings and take any other measures that may be required in order to adopt its regulations for the area.

(D) When the Village of Sugar Mountain relinquishes jurisdiction over an area that it is regulating under this Ordinance, and/or under N.C.G.S. Chapter 160A, Article 19 et seq., to Avery County, the Village of Sugar Mountain's regulations and powers of enforcement shall remain in effect until (i) Avery County has adopted the regulations or (ii) a period of sixty (60) days has elapsed following the action by which the Village of Sugar Mountain relinquished jurisdiction, whichever is sooner. During this period, in accordance with N.C.G.S. Chapter 160A, Article 19 et seq., Avery County may hold hearings and take other measures that may be required in order to adopt its regulations for the area.

(E) Pursuant to N.C.G.S. §160A-361 et seq., the Village of Sugar Mountain Board of Adjustment is designated as the governing body responsible for duties related to the Village of Sugar Mountain's extraterritorial jurisdiction and shall perform the following duties:

- (1) Make studies of the area within its jurisdiction and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving these objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the Village of Sugar Mountain's Village Council concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Village of Sugar Mountain's Village Council may direct;

(7) Perform any other related duties that the Village of Sugar Mountain's Village Council may direct.

(F) When the Village of Sugar Mountain elects to exercise its extraterritorial zoning or subdivision-regulation powers under N.C.G.S. § 160A-360, the Village of Sugar Mountain shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. Representation shall be provided by appointing at least one resident of the entire extraterritorial zoning and subdivision regulation area to the Board of Adjustment that makes recommendations or grants relief in these matters. For purposes of this section, an additional member must be appointed to the Board of Adjustment to achieve proportional representation only when the population of the entire extraterritorial zoning and subdivision area constitutes a full fraction of the municipality's population divided by the total membership of the Board of Adjustment. Once the Avery County Board of Commissioners provides proportional representation, no power available to the Village of Sugar Mountain under N.C.G.S. § 160A-360 shall be ineffective in its extraterritorial area solely because the Avery County Board of Commissioners' appointments have not yet been made. If there is an insufficient number of qualified residents of the area to meet membership requirements, the Avery County Board of Commissioners may appoint as many other residents of Avery County as necessary to make up the requisite number. If the Avery County Board of Commissioners fails to make the appointments within ninety (90) days after receiving a resolution from the Village of Sugar Mountain's Village Council requesting that they be made, the Village of Sugar Mountain's Village Council may make them. The outside representatives may have equal rights, privileges, and duties with the other members of the Board of Adjustment to which they are appointed, regardless of whether the matters at issue arise within the city or within the extraterritorial area; otherwise they shall function only with respect to matters within the extraterritorial area.

(G) Except as provided in the Zoning Ordinances for the Village of Sugar Mountain, and/or N.C.G.S. Chapter 160A, Article 19 et seq., any building, structure, or other land use in a territory over which the Village of Sugar Mountain has acquired jurisdiction is subject to the ordinances and regulations of the Village of Sugar Mountain.

This Amendment shall become effective upon adoption. This Amendment replaces the previous contents of Article XII, Chapter 1 of the Village of Sugar Mountain Code of Ordinances. (Section 1200, Amended in full October 17, 2017).

§ 1217. REASONABLE ACCOMMODATIONS

(Adopted November 13, 2018)

(A) The Board of Adjustment is authorized to grant reasonable accommodations under the Federal Fair Housing Act, Americans with Disabilities Act, and Rehabilitation Act under the circumstances set forth in this section.

(B) An application for a reasonable accommodation may be filed only by the owner of the land affected by the reasonable accommodation; an agent, lessee, or contract purchaser specifically authorized by the owner to file such application; or any unit of governments that is not the owner of the lot but proposes to acquire the lot by purchase, gift or condemnation.

(C) An application for a reasonable accommodation shall be filed with the Zoning Administrator and contain: (1) the applicant's contact information (name, mailing address, telephone number, fax number, and email address); (2) the contact information for the owner(s) of the property (if different from the applicant); (3) the address of the property at which the reasonable accommodation

requested; (4) a description of the reasonable accommodation requested; (5) a statement explaining how and why the request meets the standards for a reasonable accommodation (see subsection (f) below); and (6) the notarized signature of the applicant and property owner(s) (if different from the applicant). No filing fee shall be required for the application.

(D) The Board shall hold a quasi-judicial hearing on the proposed reasonable accommodation and shall decide the request upon a majority vote of the members.

(E) The quasi-judicial hearing shall be noticed in accordance with the requirements set forth in state law for the adequate notice of Variances from municipal governments land use Ordinances.

(F) The Board shall grant a reasonable accommodation to any provision of the Land Use Ordinance if the Board finds that the applicant has carried its burden of proof, by the greater weight of the evidence, that the proposed reasonable accommodation is both reasonable and necessary, in accordance with the following:

(1) Reasonable: An accommodation will be determined to be reasonable if it would not undermine the legitimate purposes and effects of existing zoning regulations, and if it will not impose significant financial and administrative burdens upon the municipality and/or constitute a substantial or fundamental alteration of the municipality's Land Use Ordinance provisions; and

(2) Necessary: An accommodation will be determined to be necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap and would afford disabled or handicapped persons equal opportunity to enjoy and use housing in residential districts in the municipality.

(G) After the Board approves a reasonable accommodation, the applicant shall follow all applicable Land Use Ordinance procedures and regulations for the approval of any permits, certificates, or other approvals required in order to proceed with development or use of the property. All orders, decisions, determinations, and interpretations made by administrative officers under those procedures shall be consistent with the reasonable accommodation granted by the Board.

**ARTICLE XIII
AMENDMENTS**

(Entire Article Amended – 7-1-1986)

SECTION 1300. AMENDMENTS

This zoning ordinance, including zoning map, may be amended by the Village Council in accordance with the provisions of this article.

SECTION 1301. INITIATION OF AMENDMENTS

Proposed changes or amendments may be initiated by the Village Council, the Planning Board, the Board of Adjustment, or one or more owners of property within the area proposed to be changed or affected.

SECTION 1302. APPLICATION

Before any action on a proposed change or amendment, an application shall be submitted to the office of the Zoning Administrator at least ten (10) days prior to the Planning Board's meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district as shown on the application forms supplied by the Village. All applications requesting a change in the zoning map shall include a description of the property in question. The Planning Board and the Village Council will not consider an application for property denied within the preceding twelve (12) months by the Village Council.

SECTION 1303. PLANNING BOARD ACTION

Before taking any action on a proposed amendment to the ordinance, the Village Council shall consider the Planning Board's recommendations on each proposed amendment. The Planning Board shall have thirty (30) days after the first consideration to the Village Council. Failure of the Planning Board to submit recommendations within the thirty (30) day period shall constitute a favorable recommendation. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. *(Amended 5-5-1987; 7-15-2008)*

CHAPTER I

ZONING

SECTION 1304.

PUBLIC HEARING

Before enacting any amendment to the ordinance, the Village Council shall hold a public hearing. Public notice of the hearing shall be given as required by N.C.G.S. 160A-364 as follows: 1. Newspaper Notice. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the Village of Sugar Mountain, said notices to be published the first time not less than ten (10) days and not more than twenty-five (25) days before the date fixed for such public hearing. 2. Mailed Notice. When an amendment to the Official Zoning Map (zoning map amendment) is proposed, the owner of that parcel of land, as shown on the county tax listing, that is subject of a proposed zoning amendment, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the addresses listed for such owners on the county abstracts. Such notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Village Council that fact, and such certificate shall be deemed conclusive in the absence of fraud. 3. Alternative to Mailed Notice. The first class mail notice required in (2), above shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Village elects to use the expanded published notice provided for in this section (3). In this instance, the Village may elect to either make the mailed notice provided for in (2), above, or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364 (and enumerated in (1), above), but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property shall be notified in according to the provisions of (2), above. 4. Posted Notice. When a zoning map amendment is proposed, the Village shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested persons. (*Amended 7-15-2008*)

SECTION 1305.

PROTESTS

Protest Petition – In the case o a qualified protest against an amendment to the Official Zoning Map, such amendment shall not become effective except by favorable vote of three-fourths of all members of the Village Council. For the purposes of this section, vacant positions on the Village Council and members who are excused from voting shall not be considered “members of the Village Council” for calculations of the requisite super-majority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20) or more of the area included in the proposed change or (ii) five percent of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-

of-way is 100-feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Village may rely on county tax listing to determine the “owners” of potentially qualifying areas. The foregoing provision concerning protest shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of the annexation. No protest against any amendment to this ordinance, including the Official Zoning Map, shall be valid or effective for the purposes of this section and G.S.160A-385 unless it shall be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment, and unless it shall have been received by the Village Clerk in sufficient time to allow the Village at least two normal working days, excluding Saturdays, Sundays and any legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Village Council may, by ordinance, require that all protest petitions be on a form prescribed and furnished by the Village, and such form may prescribe any reasonable information deemed necessary to permit the Village to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in this section and G.S. 160A-385 at the time on the zoning amendment shall trigger the super-majority voting requirement. *(Amended 7-15-2008)*

SECTION 1306.

DECISION

The Village Council shall make a decision on the proposed amendment within sixty (60) days after the public hearing.

SECTION 1307.

FEES FOR AMENDMENTS

Property owners or their agents shall pay a fine of \$100.00 to the Village of Sugar Mountain for each application for a zoning amendment to defray the costs of advertising the public notice and other administrative expenses.

ARTICLE XIV
INTERPRETATION AND DEFINITIONS

SECTION 1400.

WORD INTERPRETATION

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word “**Village**” shall mean the Village of Sugar Mountain, North Carolina.

The words “**Village Council**” shall mean the Village Council of Sugar Mountain, North Carolina.

The words “**Board of Adjustment**” shall mean the Sugar Mountain Board of Adjustment.

The words “**Planning Board**” shall mean the Sugar Mountain Planning Board.

The word “**ordinance**” shall mean the Zoning Ordinance of Sugar Mountain.

The word “**may**” is permissive.

The word “**shall**” is mandatory.

The word “**lot**” includes the words “**plot**” and “**parcel.**”

The word “**building**” includes the word “**structure.**”

The word “**street**” includes the words “**road**” and “**highway.**”

The words “**person**” or “**applicant**” include a firm, association, organization, partnership, corporation, company, trust, an individual, or governmental unit.

The words “**zoning map**” or “**Sugar Mountain Zoning Map**” shall mean the Official Zoning Map of the Village of Sugar Mountain.

SECTION 1401.

DEFINITIONS

Accessory Use.

A use customarily incidental and subordinate to the principle use or building and located on the same lot with such principle use or building.

Alley.

A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Buffer Strip.

A buffer strip is vegetation consisting of evergreen trees or shrubs located along the side and rear lot lines, but shall not extend beyond the established setback line along any street. Such buffer strip shall not be less than four (4) feet in width and shall be composed of trees and shrubs of a type which at maturity shall be not less than six (6) feet in height, unless otherwise specified.

Building.

Any structure having a roof supported by columns or walls, and intended for shelter, housing or enclosure of persons, animals or chattels. The connection of two buildings by means of a porch, breezeway, carport or other such structure shall not constitute a single building unless an attached structure meets all of the following criteria:

- 1.) A common footing with the main structure measuring at least ten (10) feet in length.
- 2.) Complete enclosure, designed to match, as closely as possible, the design and materials of the main structure.
- 3.) A minimum enclosed area of 80 square feet, and each wall shall be at least eight (8) feet in length, except that one of the non-common walls may be reduced to four (4) feet if the attached structure cannot be placed parallel to the main building.

Building, Accessory.

A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principle building and located on the same lot. Use of an accessory building as part of a dwelling shall be allowed. No rental or lease of any accessory buildings shall be allowed unless such accessory building is rented or leased as a whole with the main structure of the property. (Amended 9.20.2018)

Building, Principle.

A building used for the same purpose as the principle use of the lot.

Building, Setback Line.

A line delineating the minimum allowable distance between the street right-of-way line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

Customary Incidental Home Occupation.

Any profession or occupation conducted entirely within a dwelling by a family member or occupant permanently residing on the premises. No merchandise shall be sold or displayed on the premises, and no mechanical equipment shall be installed which is not normally used for domestic or professional purposes. No more than twenty-five percent (25%) of the total floor space of the dwelling may be used for a home occupation, and only one home occupation shall be permitted in one dwelling unit. No sign of other exterior evidence of the presence of a home occupation shall be permitted. Only members of the immediate family residing in the same dwelling unit and not more than one other employee may be employed in the operation of a home occupation. One off-street parking space shall be required in addition to the parking requirements for the dwelling unit.

Commercial Planned Unit Development (CPUD).

For the purpose of this ordinance, a CPUD shall be defined as: (1) a commercial development where more than one principle building and its accessory buildings or uses is proposed for a lot or tract in single or unit ownership, or (2) a single commercial structure which occupies more than 10,000 square feet of a lot or tract, or which contains more than 20,000 square feet of heated floor space.

A CPUD may be issued a special use permit by the Board of Adjustment in the C-B Commercial Business District, R-C Resort Commercial District, and the O-B Office Business District, subject to the provisions in Chapter 1, Article VIII, Section 802, and Article XII, Section 1205. *(Amended 2-2-1988)*

Condominium – Apartment.

A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

Dish Antenna (or earth station).

A dish antenna, or earth station, is defined as an accessory structure and shall mean a combination of: (1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

Dish Antenna (or earth station) Height.

The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

Dish Antenna (or earth station) Setback.

The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.

Dwelling Unit.

A building, or portion thereof providing complete and permanent living facilities for one family.

Dwelling, Multi-Family.

A residential building or buildings, attached or detached, and located on one or more lots held in single or unit ownership, designed to be occupied by two (2) or more families.

Dwelling, Single-Family.

A residential building arranged or designed to be occupied by one (1) family.

Easement.

A grant by a property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Family.

One or more individuals related by blood, marriage, adoption, occupying a premises and living as a single, non-profit housekeeping unit, including domestic servants, live in help and foster children, provided that a group of more than two (2) persons who are not related by blood or marriage shall not be deemed to constitute a family.

Fences.

Any structure attached to the ground which serves as a barrier or boundary, either actual or perceived, and constructed of wood, stone, brick, concrete, wire, metal, or any combination of the above listed material. *(Amended 2-3-1987)*

Group Project.

Two or more principle buildings constructed on one or more lots held in single or unit ownership, said lot or lots not subdivided into customary streets and lots. A group project may be issued a special use permit by the Board of Adjustment, provided the applicant shall comply with the standards and conditions set forth in Article XII, Section 1205, and other applicable sections of this ordinance. Any group project which would include more than four (4) multi-family dwellings shall be considered a residential planned unit development and may be issued a special use permit subject to the conditions and review process in Chapter 1, Article XII, Section 1205.

Individual Water System.

Any well, spring, stream or other source used to supply a single connection.

Individual Sewer System.

Any septic tank, ground adsorption system, privy or other facility serving a single source or connection and approved by the County Sanitarian.

Industry.

Any business or occupation conducted as a means of livelihood or for profit which manufactures products for sale.

Junk.

Scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; dismantled or wrecked machinery, vehicles or parts thereof; iron, steel, and other scrap ferrous or non-ferrous materials.

Junkyard.

An establishment or land area which is maintained, operated or used for storing, keeping, buying or selling junk, regardless of the length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard, but shall not include county operated sanitary landfills.

Lot.

A parcel of land occupied or capable of being occupied by a building together with its customary accessory buildings, including the open space required by this ordinance. For the purposes of this ordinance, the word “lot” shall also mean any number of contiguous lots or portions thereof, upon which one or more principle structures are to be erected for a single use.

Lot Depth.

The average horizontal distance between front and rear lot lines as measured from the side lot lines.

Lot of Record.

Any lot within the Village of Sugar Mountain for which a plat has been recorded in the Register of Deeds Office of Avery County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width.

The distance between side lot lines measured at the front setback line.

Manufactured Building.

A building mass produced in a factory, either independent or a module for combination with other elements to form a building on site, and designed and constructed for transportation to a site for installation and use when connected to required facilities. *(Approved 2-20-1998)*

Manufactured Housing.

A manufactured building or portion of a building designed for long term residential use. *(Approved 2-20-1998)*

Mobile Building.

A portable manufactured building constructed on a chassis and intended for use as a nonresidential structure. A mobile building shall be construed to remain a mobile building, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed, and regardless of the nature of this foundation provided. A mobile building may be permitted only as a temporary use structure, subject to the terms of this ordinance.

Mobile Home.

A portable manufactured housing unit or a portion thereof, which is designated a mobile home or a manufactured home by the Uniform Standards Code for Mobile Homes Act shall be considered a mobile home. A mobile home is built and designed to be transported on its own chassis and has a measurement of thirty-two (32) feet or more in length and eight (8) feet or more in width. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch or other appurtenances of mobility are removed, and regardless of the nature of the foundation or underpinning provided. For the purposes of this ordinance, a mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. *(Approved 2-20-1998)*

Modular Housing Unit.

A manufactured housing unit or portion thereof, which is constructed and installed in accordance with the North Carolina Residential Building Codes, and is transported to a site for installation and use when connected to required facilities. A modular housing unit may be transported to a building site on its own chassis or by other means. A modular housing unit shall be required to meet all requirements of this ordinance and all other Village codes, including the removal of wheels, axles, hitch and other appurtenances of mobility. *(Approved 2-20-1998)*

Minimum Dwelling Area.

The minimum area of a dwelling unit is measured in square feet, of which, not less than the first 1,000 sq. ft. is to be contained within the primary floor of the structure except as provided in Chapter 1, Article VII, Section 706, § 706.4 dealing with the minimum dwelling area per dwelling unit in a multi-family building. The minimum dwelling area shall include the enclosed, fully finished, heated, livable floor area (per N.C. Building Code), excluding garages, unfinished basements, decks and porches. *(Amended 1-2-1990; 11-19-1996)*

Nonconforming Use.

Any parcel of land, use of land, building or structure existing at the time of adoption of this ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.

Nursing Home.

A nursing home is defined as an institution however named, which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A “nursing home” is a home for chronic or convalescent who do not usually require special facilities, such as an operating room, x-ray facilities. Laboratory facilities, and obstetrical facilities. A “nursing home” provides care for persons who have remedial ailments or other ailments, for which medical and nursing care is indicated.

Parking Space.

An area of not less than nine (9) feet by twenty (20) feet for parking a vehicle plus the necessary access space. Parking space(s) shall be provided with vehicular access to a street or alley, and shall always be located outside the dedicated right-of-way.

Parks.

The term “park” shall include those areas developed either for passive or active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multi-use courts, swimming and wading pools, amphitheaters, etc. The term “park” shall not include zoos, travel trailer parks, amusements parks, or vehicle racing facilities.

Premises.

A tract of real property in single ownership which is not divided by a public street or right-of-way.

Principle Use.

The principle use of a lot.

Private Club.

A voluntary, incorporated or unincorporated association of persons for purposes of social, literary, or political nature, and membership is not available to the general public.

Public Sewer System.

Any sewer system owned and operated by a local unit of government in Avery County, or other sewage treatment facility serving two or more connections, or any wastewater treatment system having a discharge to surface waters when approved by the Division of Environmental Management of the Department of Natural Resources and Community Development, or ground absorption system serving two or more connections when approved by the County Sanitarian.

Public Water System.

Water systems serving fifteen (15) or more residential connections or serving more than twenty-five (25) year-round residents are classified as public water supplies by state law, and plans and specification must be approved by the Department of Human Resources, Division of Health Services. Also, water supply systems serving from two (2) to fourteen (14) connections shall be regulated by the appropriate County Board of Health.

Recreation Use, Non Profit.

An indoor or outdoor recreation facility operated on a non-profit basis, according to the laws of North Carolina.

Recreation Use, Profit.

An indoor or outdoor recreation facility operated on a for profit basis.

Residential Planned Unit Development.

A residential development which includes more than four (4) multi-family dwelling units, developed or proposed for development on a lot or tract of lots held in single or unit ownership. A residential planned unit development may be issued a special use permit in specific districts subject to the conditions and review process in Chapter 1, Article VIII, Section 801, and Article XII, Section 1205.

Retail Business.

Establishments selling commodities and/or providing services directly to the consumer.

Special Use Permit.

A permit issued by the Zoning Board of Adjustment for a use which is permitted in a specific zoning district, subject to the review and approval of the Board of Adjustment. The special use permit shall be only when the specific conditions and review procedures set forth in this ordinance are met to insure the health, safety, welfare, and compatibility with adjacent properties and the Village of Sugar Mountain are maintained and protected. The Board of Adjustment may require any reasonable conditions in the issuance of a special use permit.

Street (Road).

A right-of-way for vehicular traffic which affords the principle means of access to abutting properties.

Street Right-Of-Way.

The right-of-way for vehicular traffic which affords the principle means of access to abutting properties.

Structure.

Anything constructed or erected, including but not limited to building, which requires location on the land or attachment to something having permanent location on the land.

Temporary Use Structure.

A structure intended for temporary office, headquarters, or storage of materials on the same lot or tract of land being used or developed for a directly related permanent use. This temporary structure shall require a temporary certificate of zoning compliance from the Zoning Administrator for a maximum period of one (1) year, with renewal extensions of six (6) months.

Travel Trailer.

Any vehicle, self-propelled or otherwise, which is designed for transient, non-permanent living.

Use.

Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a parcel of land.

Variance.

A variance is a relaxation of the terms of the zoning ordinance where such a variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. A variance may be granted by the Board of Adjustment in such individual case of unnecessary hardship upon finding that specific conditions listed in Chapter 1, Article XII, Section 1205, § 1205.3 of this ordinance exist.

Yard.

A space on the same lot with a principle building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky except where encroachments and accessory buildings are expressly permitted. For the purposes of this ordinance, eaves extending less than thirty-six (36) inches from the building wall, uncovered stairways, and exterior walkways which are uncovered and no greater than four (4) feet in width shall not be considered encroachments into required yard areas. (*Amended 12-1-1987*)

Yard, Front.

An open, unoccupied space on the same lot with a principle building, extending the full width of the lot, and situated between the street right-of-way line and the front building setback line, projected to the side lines of the lot.

Yard, Rear.

An open, unoccupied space on the same lot with a principle building, extending the full width of the lot, and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Yard, Side.

An open, unoccupied space on the same lot with a principle building, situated between the building and the side lot line, and extending from the rear line of the front yard to the front line of the rear yard.

Zoning Administrator.

An official of the Village of Sugar Mountain charged with enforcing and administering the Zoning Ordinance.

**ARTICLE XV
LEGAL STATUS PROVISION**

SECTION 1500.

CONFLICTING REGULATIONS

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the Village of Sugar Mountain with specific regard to the preservation of property values and enhancement of the unique setting or annul other rules, regulations or ordinances of the Town, or any easement, covenants or other agreements between parties. However, if the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances of the Village of Sugar Mountain or with easements, covenants or agreements between parties, the more restrictive or that imposing the higher standards shall govern.

SECTION 1501.

VALIDITY

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. Any district that is declared invalid as to use will revert to uses outlined in R-4 Estate Sized Residential Lot District.

**ARTICLE XVI
PENALTY AND EFFECTIVE DATE**

SECTION 1600.

PENALTY

(Deleted 1-7-1986)

SECTION 1601.

EFFECTIVE DATE

This ordinance shall take effect and be in force from and after its adoption by the Village Council of the Village of Sugar Mountain, this _____ day of _____, 1985.

Mayor

Attest: _____

Approved at to Form: _____

Town Attorney: _____
Gerald McKinney

ARTICLE XVII
WATERSHED OVERLAY DISTRICT

(Entire Article Added 6-1-1993)
(Entire Article/District Repealed/Removed 4-16-1996)