



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for September 26, 2022
Date: September 16, 2022

The **Town of Black Mountain Planning Board** will meet on **Monday, September 26, 2022, at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from August 22, 2022; and
3. UDO Review – Land Use Standards.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@tobm.org.

CC: Jessica Trotman, Planning Director
Russell Cate, Planner 1/Zoning Administrator
Ron Sneed, Town Attorney



PUBLIC NOTICE **AVISO PÚBLICO**

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING **REUNIÓN ORDINARIA**

Monday, September 26, 2022, at 6:00 p.m.
Lunes 26 de septiembre de 2022, a las 6:00 p.m.

The Black Mountain Planning Board will meet for their regular monthly meeting on **Monday, September 26, 2022, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Planificación de Black Mountain se reunirá para su reunión mensual regular el **lunes 26 de septiembre de 2022 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, N. C.

The meeting is open to the public.
La reunión está abierta al público.

Jennifer Tipton
Senior Admin

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La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 09/01/2022

www.townofblackmountain.org



**Planning Board Regular Meeting
September 26, 2022**

PROPOSED AGENDA

I. CALL TO ORDER

- Welcome
- Determination of Quorum

II. ADOPTION OF AGENDA

- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of August 22, 2022, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- UDO Review – Land Use Standards

VI. PUBLIC COMMENT

VII. COMMUNICATION FROM PLANNING BOARD

VIII. COMMUNICATION FROM STAFF

IV. ADJOURNMENT

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, August 22, 2022, at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Pam Norton, Vice Chair
Kathy Phillips
Lauronda Teeple
Joe Laudenslayer
Chas Fitzgerald

Absent:

Chris Collins, Chair
Rick Earley

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Russell Cate, Planner I
Ron Sneed, Town Attorney

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of five (5) members.

II. ADOPTION OF AGENDA

Pam Norton made a motion to adopt the agenda as presented. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Joe Laudenslayer made a motion to adopt the minutes of July 25, 2022, as written. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

IV. NEW BUSINESS

1. Table of Permitted Uses

Jessica Trotman presented the current table of uses and told to board to think about what uses could be added or what uses might need to be changed. She also said to think about the zoning districts and if any uses might need to change from the district that they are currently in. She also reminded the board that we have adopted conditional zoning and to be thinking about uses for that as well. Ms. Trotman then went through the next steps as we move forward in the UDO process. Board members will be given a draft of the module and will have ten to fourteen days to make any comments and send those to staff. Staff will then bring the draft with all comments to the next regular meeting and the comments will be voted on by consensus. If there is a module that might take a little more time, a special meeting can be scheduled. Ms. Trotman reminded the board that the UDO is a tweak and revision of our current regulations and not an overhaul. Ms. Trotman spoke about modernizing the regulations and that if any text has been changed, there needs to be a summary of why to

Planning Board Regular Meeting
October 25, 2021

provide some context. There has to be a place for everything, but you can make it difficult to achieve.

2. Tree Ordinance Discussion

Ms. Trotman said the goal is to go through the document and review all of the comments. Board members will express whether to keep the comments, revise the comments, or remove the comments. The board will then vote to recommend the chapter or not. All of the accompanying comments and documents will travel with the draft chapter and be kept in a notebook. Ms. Trotman will update the Council during her monthly reports on the progress that is being made. The Council will then adopt the entire document when there is a final draft.

The board went through the comments for the tree ordinance and made a few revisions. Chas Fitzgerald made a motion to recommend the Trees, Landscaping, and Buffering chapter as amended. The motion was seconded by Kathy Phillips and approved by a vote of 5-0.

Ms. Trotman then spoke about project management and that this project is budget driven so it is important to stay on schedule and deliver a draft that is supported and actionable.

V. OLD BUSINESS

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

Chas Fitzgerald spoke about the recommendation that the board had made at the last meeting that would remove one- and two-family dwellings from the Central Business district. Mr. Fitzgerald suggested teasing out the existing residential on Vance Avenue and S. Ridgeway Avenue as residential pockets that could continue their residential use and not be considered non-conforming. Ms. Trotman said that she would add a comment to the staff report that existing residential uses would be allowed to remain unless they were converted to a commercial use.

VIII. COMMUNICATION FROM STAFF

Jessica Trotman introduced Russell Cate, our new Planner 1. Ms. Trotman also spoke about some new safety measures and that will be locking the front door after everyone has arrived and placing a sign on the front of the door with a note and phone number if someone needs to get in for the meeting.

VX. ADJOURNMENT

Lauronda Teeple made a motion to adjourn the meeting at 8:40 p.m. The motion was seconded by Kathy Phillips and approved by a vote of 5-0.

Prepared by:

Chris Collins, Chair

Planning Board Regular Meeting
October 25, 2021

Jennifer Tipton, Senior Admin

Dear Planning Board,

In this packet you will find a variety of items to read and consider.

1. Administrative standards. If you submitted comments that are eligible to be considered – they are made in the “bubble” comments. Most of the comments are from staff. We are clearly noticing some of the same things!
2. The comparison table of permitted uses. This will help our conversation and make it easy for our consultant to bring over existing uses and expand from there. Chas sent some a marked up table as well.
3. You will see some draft STR language. This is from Brevard. I haven’t proposed districts on this use yet, but look forward to thinking about this together at the meeting.

As a reminder at the meeting we’ll go through comments, work to consensus and vote.



~ Land Use Standards (Administrative and Special)

~ Purpose and Applicability

- A. **Purpose.** The purpose of this Section is to promote compatibility among land uses in the Town by establishing specific standards for the establishment of limited, special, accessory, and temporary uses.
- B. **Applicability.**
1. *Approval of Uses Permitted with Limitations.* For uses permitted with limitations (L), the Planning Director or designee shall use the standards set out in Section X, Limited Use Standards, to determine whether to approve or disapprove.
 2. *Approval of Special Uses.* For special uses (S), the Board of Adjustment shall use the criteria set out in Section X, Special Use Permits, to determine whether to approve, approve with conditions, or disapprove.
 3. *Other Applicable Standards.* The standards of this Section are applied in addition to the other applicable standards of this UDO. In interpreting what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure serves or is proposed to serve. Two or more principal uses may be permitted to occupy the same land or building as long as each use is a permitted use.
- A. **Accessory Uses.** An accessory use shall be considered a structure or use that meets the criteria set forth in X, Accessory Use and Structure Standards.
- B. **Permitted Uses.** Table X-1, Permitted Uses by Zoning District, lists the land uses permitted in the various zoning districts.
1. *Symbols.* Table X-2 uses the following symbols:
 - a. "P" means that the land use is Permitted by Right subject to the standards that apply to all Permitted Uses.
 - b. "L" means that the land use is Permitted with Limitations in the same manner as a Permitted Use subject to Section X, Limited Use Standards.
 - c. "S" means that the use is allowed as a Special Use, which may be approved following a public hearing by the Board of Adjustment.
 - d. "--" means that the use is a Prohibited Use in the specified zoning district.
 2. *Unlisted Use Categories and Uses.* A use category or specific use is prohibited if it is not listed in Table X-1 and if the Director cannot interpret an unlisted specific use as functionally similar to a use that is allowed, based on the criteria in Section X, New and Unlisted Uses.

Commented [JT1]: Should there be an approval for temporary uses or a section for temporary uses that say what standards they must meet. Also, should they be listed in the table of permitted uses?

Commented [JT2]: Should be "an evidentiary"

Table 156.30.02-1 Permitted Uses by Zoning District														
Key	P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use													
Use Category	Specific Use	Zoning District and Development Types												
Agricultural and Residential														
Agricultural and Animal-Related	Animal Production & Support (excl. Urban Chickens)													
	Auction Sales - Livestock Only													
	Beekeeping/Apiaries													
	Urban Chickens													
	Crop Production													
	Farmer's Market or Fruit / Vegetable Stand													
	Forestry and Logging													
	Hunting, Fishing, and Game Preserve (Commercial)													
	Pet Care Service (without outdoor kennels)													
	Pet Care Service (with outdoor kennels)													
	Veterinarian Office or Hospital, Large Animal													
	Veterinarian Office or Hospital, Small Animal													
Household Living	Duplex													
	Multifamily Dwelling													
	Single-Family Attached Dwelling													
	Single-Family Detached Dwelling													
	Manufactured Home Park													

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Commented [JT4]: Make individual uses

Commented [JT5]: 2 family dwelling

Table 156.30.02-1 Permitted Uses by Zoning District

		P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use											
Key													
Use Category	Specific Use	Zoning District and Development Types											
Group Living	Manufactured Home												
	Modular Home												
	Recreational Vehicle												
	Recreational Vehicle Park												
	Tiny Home												
	Zero Lot Line Housing												
	Family Care Home												
	Residential Care Facility												
Institutional and Civic	All Other Group Living Uses												
Community Amenities	All Community Amenities												
Day Care	All Day Care Uses												
Educational Facilities	School, Public or Private, Elementary or Secondary												
	University or College												
	All Other Educational Facilities												
Government Facilities	Correctional Institution												
	All Other Government Facilities												
Medical Facilities	Medical and Dental Office												
	All Other Medical Facilities												
Parks and Open Areas	Cemeteries & Mausoleums												
	Country Club and Golf Course												
	Zoo												

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Commented [JT6]: Make single and double wide.

Commented [JT7]: This is a method of construction available to any sort of residential structure in NC and is regulated via NC building code. It isn't a use and should be removed.

Commented [JT8]: RV park models, stamped and regulated by NCDOT. RV Park (being similar to a campground) or RV Park being something used for transitional or short term housing. How do traditional RVs differ legally than the newer "tiny house" on wheels? They are both RVs by NCDOT and NCDOT regulations. They can only be used for temporary housing. Can differ between the two by using time limitations on use for habitation.

Commented [JT9]: A stick built tiny house is not any different than any house in NC because there as long as it meets building code, you cannot set a minimum size house.

Commented [JT10]: More detailed break out of these.

Commented [JT11]: More detailed break out of these.

Commented [JT12]: How do we feel about Healthcare instead of medical? Occupational therapy, physical therapy, mental health care providers, alternative/natural health care providers, massage therapy, acupuncture, chiropractor, etc.

Commented [JT13]: Add community garden as principle use.

Table 156.30.02-1 Permitted Uses by Zoning District

Key	P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use											
	Use Category	Specific Use	Zoning District and Development Types									
		All Other Parks and Open Areas										
	Passenger Terminals	Airport										
		Park-and-Ride Facility/Transit Terminals										
		All Other Passenger Terminals										
	Public Assembly	Club, Private										
		Convention Center / Visitors Bureau										
		All Public/Religious Assembly Uses										
	Social Service	All Social Service Uses										
	Utilities	Solar Farm										
		Amateur Radio Antenna										
		Wireless Telecommunications Tower										
		All Other Major Utilities										
		All Minor Utilities										
	Commercial											
	Entertainment, Indoor	Amusement Arcade										
		Brewpub / Microbrewery, Microwinery, Microdistillery, Microcidery										
		Dance Halls, Night Clubs, Private Clubs, Bars, Lounges, Taverns, Pubs										
		Electronic Gaming Establishment										

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Commented [JT14]: Add: grocery stores, neighborhood market, corner store. Small market in the NUM8 could increase walkability.

Commented [JT15]: I think these need to be broken out into brewpub/brewery/winery/distillery/cidery and then microbrewery/microwinery/microdistillery/microcidery

Commented [JT16]: Aren't these illegal?

Table 156.30.02-1 Permitted Uses by Zoning District

Key	P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use											
	Use Category	Specific Use	Zoning District and Development Types									
		Fortune Telling / Palm Reading										
		Reception Facility										
		Tattoo Parlor, Body Piercing										
		All Other Indoor Entertainment, excluding Sexually-Oriented Businesses										
Entertainment, Outdoor		Amusement Park										
		Drive-In Theater										
		All Other Outdoor Entertainment										
Offices		Contractor's Office (without outdoor storage)										
		Contractor's Office (with outdoor storage)										
		Financial Institution										
		All Other Office Uses										
Overnight Accommodations		Bed & Breakfast Inn										
		All Other Overnight Accommodations										
Parking, Commercial		Truck, Tractor Trailer, or Bus Storage (does not include inoperable vehicles)										
		All Other Commercial Parking Uses (does not include inoperable vehicles)										
Retail Repair, Sales, and Service Uses		Firearms and Ammunition Sales										
		Funeral Home and/or Crematorium										

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Commented [JT17]: Add: Professional services - accounting, insurance, engineering services, counselors and therapists, healthcare providers, property management

Commented [JT18]: Break these out to align with the terms and definition in the NCGS.

Commented [JT19R18]: Add bed and breakfast house

Commented [JT20]: Add hotel, motel, short term rental

Commented [JT21]: We don't want this as a principle use. If you store trucks you make, sure. That's fine.

Commented [JT22]: We don't want this as a principle use.

Commented [JT23]: Add: art gallery, art studios, bookstores, cafes and coffeeshop, coffee roasting (can be smellie), fitness studios and gyms, dry cleaners, auto repair, moving van rental, construction/machine rental (lifts, etc)., mix-use residential/non-residential, mixed use non-residential, artisan outdoor market, flea market

Commented [JT24R23]: florist, drugstore, hair salon/beauty parlor/nail salon,

Table 156.30.02-1 Permitted Uses by Zoning District

		P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use											
Key													
Use Category	Specific Use	Zoning District and Development Types											
	Lawn and Garden Supply (without outdoor display or storage)												
	Lawn and Garden Supply (with outdoor display or storage)												
	Liquor Sales (ABC Store)												
	Outdoor Market (including flea markets)												
	Pawnshop												
	Vaping Shop												
	All Other Retail Sales and Service												
Restaurant	Restaurant, Limited-Service (delivery, carryout, drive-thru)												
	All Other Restaurants Uses												
Sexually-Oriented Business	All Sexually-Oriented Businesses												
Vehicle Sales and Service Uses	Automobile Repair, Major												
	Automobile Repair, Minor												
	Automobile Towing and Temporary Storage												
	Car Wash												
	Fuel Sales												
	Manufactured / Modular Home and Storage Building Sales												

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Commented [JT25]: Should flea markets be listed separately?

Commented [JT26]: We're seeing an increase in mix-retail uses. How should we capture this? Ex. Bike repair/outdoor gear/taproom

Commented [JT28]: These need to be broken out individually. Can we break out by scale or add limitations that would give the opportunity for small café or coffeeshop type of use in NUM8?

Commented [JT29R28]: Drive-thru uses are not allowed in CB. Do we dictate delivery service?

Commented [JT27]: What sort innovative restaurant ideas have we see during the pandemic? How can we apply these lessons? Think about the new Foothills location.

Table 156.30.02-1 Permitted Uses by Zoning District													
Key	P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use												
Use Category	Specific Use	Zoning District and Development Types											
	Truck Stop, Travel Plaza												
	Vehicle Sales and Rental												
	All Other Vehicle Sales and Service Uses												
Industrial													
Heavy Industrial	Animal Processing												
	Asphalt and Concrete Mixing Plants												
	Fertilizer Manufacturing												
	All Other Heavy Industrial Uses												
Light Industrial	Small Scale Manufacturing												
	Micromanufacturing												
	Scientific Research & Development Services												
	All Other Light Industrial Uses												
Resource Extraction	All Resource Extraction Uses												
Self-Service Storage	All Self-Service Storage Uses												
Warehousing and Storage	All Warehousing and Storage Uses												
Waste Related Service	Landfill												
	Salvage Yard (including vehicles)												
	All Other Waste Related Service												

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

Table 156.30.02-1 Permitted Uses by Zoning District														
Key	P – Permitted by Right L – Permitted with Limitations S – Permitted as Special Use (review by BOA) -- – Prohibited Use													
Use Category	Specific Use	Zoning District and Development Types												
Wholesale Trade	Building Material Supply (with outdoor storage)													
	Farm Products Sales, Bulk													
	Farm Supply Product Sales (with outdoor storage)													
	Florist and Nursery Supply, (with outdoor storage)													
	All Other Wholesale Trade (without outdoor storage)													

Commented [JT3]: @russell.cate What uses in the existing table are not reflected in this list? That will be helpful for PB.

~ New and Unlisted Uses

- A. **Director Discretion.** Each of the use categories and specific uses listed in the tables in X, *Land Use Matrix* are defined in X, *Definitions*.
- B. **Unlisted Uses.** When a proposed use is not specifically listed in X, *Land Use Matrix*, the Director shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the proposed use is determined to be the same as, or manifestly similar to, a listed use, he shall classify the

Commented [JT30]: Should this not say definitions? Does not make sense saying Director Discretion and giving no context.

Commented [JT31]: /she

proposed use as the listed use. If the Director finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted, in each case, the zoning enforcement officer shall maintain a written record of such interpretations.

Commented [JT32]: /she

- C. **Referral to Planning Board.** Should the Director determine that it is necessary, he or she may refer the determination of whether a use fits in a use category or is functionally similar to a specific use to the Planning Board.

- D. **Decision Criteria.** The Administrator or the Planning Board, as appropriate, shall evaluate the proposed use based on the following criteria:

Commented [JT33]: Director

1. *Parking demand;*
2. *Average daily and peak hour trip generation (cars and trucks);*
3. *Impervious surface;*
4. *Regulated air or water emissions;*
5. *Noise;*
6. *Lighting;*
7. *Dust;*
8. *Odors;*
9. *Solid waste generation;*
10. *Potentially hazardous conditions, such as projectiles leaving the site;*
11. *Use and storage of hazardous materials;*
12. Character of buildings and structures;
13. *Nature and impacts of operation; and*
14. *Hours of operation.*

Commented [JT34]: Change to scale, bulk etc. without a design overlay or standard we shouldn't use the term character.

- E. **If Not Authorized Then Prohibited.** If the Director or Planning Board determines that a proposed use is not part of a defined use category or functionally similar to a listed specific use, then the use is a prohibited use.

Commented [JT35]: This is not legal in North Carolina any more.

~ **Limited Use Standards**

- A. **Generally.** Certain uses are permitted within X, *Land Use Matrix*, which require additional standards to operate and function as a compatible use within a certain zoning district. Those uses are shown with an "L" in the table. These provisions do not apply to uses listed with a "P", which are permitted by right, or an "S", which designated Special Use Permits required as listed in X.

Commented [JT36R35]: I will also just mention that we talk about this twice in sections above.

- B. **Purpose.** The purpose of these standards is to ensure that a use generally deemed compatible with permitted uses in a given zoning district can be permitted with certain conditions placed on the use as denoted in in this Section.

Commented [JT37]: Need to add secondary dwellings so that they can be differentiated from accessory uses/buildings

What about "Travel Trailer Parks" - they are covered in Buncombe County - Do we need to address them in our UDO

- C. **Applicability.** An application is required for the establishment of a new limited use, a change to a limited use, or the expansion of a limited use that has not been approved.

Commented [JT38]: add "are"

- D. **Specific Limited Uses.** In accordance with the references in X, *Land Use Matrix*, the following provisions apply to the uses listed below:

Commented [JT39]: remove

1. *Animal Production & Support (excl. Swine & Feed Lots and Urban Chickens).*
 - a. **Purpose.** The purpose of this limited use is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public.

- b. Applicability. The provisions of this limited use shall not apply to dogs, cats, or other similar household pets. The Director reserves the right to determine what is considered a household pet. The Director or their designee reserves the right to determine what is considered a household pet. Likewise, the Director reserves the right to determine what is categorized as agricultural animals or other livestock for animals not considered common household pets and not clearly defined in this UDO.
 - c. Minimum Lot Size. No livestock shall be kept, maintained or stabled on any lot less than two acres in size.
 - d. Setback from Adjacent Residences. On parcels of two acres or more, certain livestock shall be permitted subject to the following provisions: All buildings or structures (excluding fences) used to house livestock shall be located so that they are no closer than 150 feet from a dwelling unit off the property.
 - e. Encroachment from Residential after the Limited Use is established. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.
 - f. Prohibited Uses. Slaughter and processes of animals is not permitted under this category.
2. *Beekeeping/Apiaries.* In accordance with the North Carolina Bee and Honey Act of 1977, the town permits up to five hives on a single parcel with the following restrictions:
 - a. Hives shall be defined as in G.S. 106-635(15).
 - b. The hive(s) be placed at ground level or securely attached to an anchor or stand. If the hive(s) are securely attached to an anchor or stand, the town may permit the anchor or stand to be permanently attached to a roof surface.
 - c. The location of any hive(s) on the property is permitted to be regulated by the Act and as such shall be placed as follows:
 - i. Hive(s) shall be setback no less than 50' from any property line.
 - ii. Hive(s) shall be kept in rear yards only.
 - iii. If the owner no longer maintains the hive(s), removal is required to protect the health, safety, and welfare of the public.
 - d. In the event that a parcel is located in X zone, bees may be kept as allowed under North Carolina law in an unlimited capacity as long as the operation and hive(s) are located at least 200 feet from any residential use or residential zoning district boundary, school, day care facility, or public park.
 3. *Urban Chickens.*
 - a. Chickens excluding all other forms of poultry may be kept on the premise of a detached single-family residence under the following conditions:
 - b. No more than three (3) hens shall be allowed for each single-family dwelling.
 - c. No birds shall be allowed in multifamily complexes, including duplexes.
 - d. No roosters (males) shall be allowed.
 - e. There shall be no outside slaughtering of birds.
 - f. All fowl must be kept at all times in a secure enclosure constructed at least two feet above the surface of the ground.
 - g. Enclosures must be situated at least 15 feet from the neighboring residence. In the case of vacant adjoining lots, the setback shall be 7 feet from the common property line.

Commented [JT40]: remove this sentence and add "designee" to the sentence right before this one.

Commented [JT41]: This is fine for animals like horses, but I do not want urban chickens to be included in this requirement.

Commented [JT42R41]: I think chickens need to have their own requirements, such as, where they can be located, how many, is a coop required, etc.

Commented [JT43]: Should this be "on"

Commented [JT44]: add "are to" in front of "be placed"

Commented [JT45]: CR1, LI, HI.

Commented [JT46]: Change chickens to hens?

Commented [JT47]: What about a duplex?

Commented [JT48R47]: Nevermind! Didn't read down far enough.

Commented [JT49]: Leave six hens.

Commented [JT50]: Should say hens

Commented [JT51]: Support wholeheartedly

Commented [JT52]: I think this needs to just refer to chickens because birds can be household pets and there are many species and varieties of birds.

Commented [JT53]: Again, this should say hens because we exclude other poultry and don't mention other fowl, just chickens (hens)

Commented [JT54R53]: What about quail, ducks, turkeys, geese, peacocks, guinea fowl?

Commented [JT55R53]: They are loud.

- h. Enclosures must provide at least four (4) square feet per chicken.
 - i. Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Neat and sanitary shall mean a permanent solid roof, walls constructed primarily of chicken wire type material excepting the load bearing and door members, immediate removal of dead animals, and the removal of refuse that may attract vermin.
 - j. Feed shall be stored in rodent proof containers.
 - k. Production shall be primarily for consumption by the subject property's residents.
 - l. Enclosures and pens must be located in rear yard like accessory structures.
4. **Crop Production.** This is limited to non-commercial growth of vegetables and fruits on personal property or in a neighborhood community garden. Under no circumstances shall crop production have items for sale on the property without proper permits.
5. **Farmer's Market or Fruit/Vegetable Stand.**
- a. The site has been supplied with electrical power at secured, in-ground stations that may be accessed by temporary users;
 - b. The use is separated from all residential property by a bufferyard or a local street or collector roadway;
 - c. The use will be conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence as determined by the Director.
6. **Forestry and Logging.** The activity of clearing for development purposes is not considered forestry and logging. Forestry and Logging is a commercial activity. This is permitted with the exception that the use shall not create or cause any perceptible noise or odors that constitute a public or private nuisance to neighboring properties.
7. **Pet Care Service (without Outdoor Kennels).** If outdoor kennels in any capacity are proposed, see standards for those with outdoor kennels.
8. **Veterinarian Office or Hospital, Large Animal or Small Animal.** Permitted without limitation unless the office or hospital contains outdoor runs. If it contains outdoor runs or outdoor stalls, see Pet Care Service (with Outdoor Kennels) under special uses.
9. **Multifamily Dwelling and Single-Family Attached Dwellings Downtown.**
- a. Each dwelling unit shall provide complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
 - b. For new construction or rehabilitation of existing structures, the first floor shall be limited to 25% of the gross floor area and shall not access the street frontage. The access for first floor dwellings shall be in the rear or in an alley.
 - c. No limitations for occupancy above the first floor are required.
 - d. Parking shall be provided in accordance with requirements for the district.
10. **Manufactured Home.** A manufactured home, as permitted by the State of North Carolina, shall be allowed to be set up in Black Mountain with the following standards:
- a. Length-Width Ratio: The minimum width (the width being the narrower of the two overall dimensions) of the main body of the mobile home shall be at least twenty-two (22) feet for a distance extending along the length (the length being the longer of the two overall dimension) of at least twenty (20) feet. As such, single-wide homes are not permitted on individual lots outside of a park.

Commented [JT56]: Residents should be allowed to sell the eggs

Commented [JT57]: We allow accessory structures in the side yard as well so i say we either allow these to also be in the side yard or remove "like accessory structures."

Commented [JT58]: I'm not sure about this. Maybe if it is reoccurring/season long. Needing a permit to sell veggies from your garden in your own yard seems like a stretch to me.

Commented [JT59R58]: Do not support asking residential gardner to obtain a permit or limiting their use - if a permit is required, what is the cost, how long are the good for, what will the permitting process look like

Commented [JT60]: Change to Garden Market Stand / Produce Stand.

Commented [JT61R60]: Farmer's Markets and Vegetable Stand are two very different things. It is unclear if a vegetable stand must be supplied with electrical power. How would this effect the Tailgate Market and current vegetable/flower stands - prefer the current regulation Section 5.8.1 A-E

Commented [JT62]: Remove.

Commented [JT63]: Add a sentence to clarify the agricultural use, as opposed to clearing for development.

Commented [JT64]: What is the definition of downtown? Can a map be supplied showing what is considered downtown area. Propose changing all references to "downtown" to CBD (Central Business District) to be clear.

Commented [JT65R64]: Agree, this needs to reference a district.

Commented [JT66]: Reference NC Building Code.

Commented [JT67]: That's not a bad idea.

Commented [JT68]: Do we need to reference that a one or two family use above the first floor is okay but multi-family requires a special use permit? Or are we proposing X number of units are permitted by right above street level?

Commented [JT69]: Assume this means "mobile home park" and if so, change the wording to reflect that.

- b. **Eaves.** The roof shall have an overhand (eave) extending at least six (6) inches from each vertical exterior wall, excluding any guttering.
 - c. **Roof Pitch.** The minimum average pitch (excluding dormers) of exterior be a nominal 4/14 (rise over run) over the entire mobile home.
 - d. **Exterior Finish.** The exterior material shall consist of wood, hardboard, vinyl, brick, or aluminum and shall be comparable in composition, appearance and durability to site build houses in the vicinity. In no case shall the degree of reflectivity exceed that of gloss white paint.
 - e. **Foundation.** A continuous permanent masonry foundation consisting of brick, concrete block with stucco or fieldstone) unpierced except for required ventilation and access shall be installed upon a poured concrete footer after placement on the lot and within one month after occupancy.
 - f. **Hitch Removal.** The hitch, axle and transporting lights shall be removed within one month after occupancy.
 - g. **Orientation.** The mobile home shall be oriented on the site in such a manner that the side having the main entrance and by design is intended to be the front of the home, is parallel to the street abutting the site.
 - h. **Skirting, Steps, and Landings.** Shall be fully skirted with appropriate steps and desired landings attached per the code requirements.
11. **Recreational Vehicle.** A recreational vehicle shall be parked and unoccupied in accordance with any applicable private covenants and restrictions. The only occupied allowance shall be on a property where a permanent residence is being constructed. For purposes of this section, a permit for the permanent residence must be valid. The RV must be unoccupied within thirty (30) days of final occupancy issuance on the permanent residence.
 12. **Tiny Home.** A tiny home shall be permitted as long as it is built to the proper residential code and constructed on an individual lot.
 13. **Residential Care Facility.** The State of North Carolina provisions for this use shall be considered as part of the review request.
 14. **All Other Group Living Uses.** The State of North Carolina provisions for this use shall be considered as part of the review request.
 15. **All Community Amenities.** Community amenities, including tennis courts and swimming pools along with incidental installations, such as pumps and filters, are permitted subject to the following standards:
 - a. **Location.** Shall be set back from all lot lines a distance of not less than five feet.
 - b. **Fencing.** Swimming pools shall be enclosed from adjoining lots by a building, a solid wall, or a protective fence of not less than four feet in height or as otherwise required by the Code.
 16. **All Day Care Uses.** The State of North Carolina provisions for this use shall be considered as part of the review request.
 17. **Family Care Home and Family Day Care Home.**
 - a. A family care home with six (6) or fewer persons or a family day care home with five (5) or fewer persons may be operated as an accessory use to a principal dwelling.
 - b. A family care home may not be located within a one-half mile radius of an existing family care home.
 18. **University or College.** These uses shall be permitted as ancillary or secondary uses related to business or industrial uses in these zoning districts.
 19. **All Other Educational Facilities.** These uses shall be permitted as ancillary or secondary uses related to business or industrial uses in these zoning districts.

Commented [JT70]: Should be "overhang".

Commented [JT71]: Should this be "built"

Commented [JT72]: What about skirting? We don't always require a permanent foundation, especially in parks.

Commented [JT73]: What if the home has to be placed sideways to fit on the lot?

Commented [JT74]: This does not make sense. Skirting is one thing and steps are another. I think skirting should be moved to the foundation section and this one should just reference steps and landings.

Commented [JT75]: Change to uninhabited

Commented [JT76]: Remove. The town does not care at all about these legal tools.

Commented [JT77]: This needs to say during the active construction period or 24 months, whichever is less.

Commented [JT78]: In this definition of a tiny home, this language is not required.

Commented [JT79]: add "lines at"

Commented [JT80]: Building Code

Commented [JT81]: This is too broad. We need to be clear which types are okay with this.

20. *Park-and-Ride Facility/Transit Terminals/All Other Passenger Terminals.* These facilities shall not be permitted as standalone parking lots, but in conjunction with another business use.
21. *Club, Private.* Private clubs are permitted as long as they do not meet the definition of a sexually oriented business. These shall be limited to group meetings, neighborhood association clubhouses, or other civic organizations.
22. *All Public/Religious Assembly Uses.* In rural and residential areas, these uses are permitted as long as their signs are not illuminated past 9 pm.
23. *All Other Major Utilities.* The State of North Carolina provisions for this use shall be considered as part of the review request.
24. *All Minor Utilities.* The State of North Carolina provisions for this use shall be considered as part of the review request.
25. *Amusement Arcade.* Within the downtown, there shall be no gambling and the hours of operation shall be 9 am to 9 pm.
26. *Reception Facility.* In residential areas, reception facilities are limited to barns or other agricultural type buildings.
27. *Contractor's Office (without outdoor storage).* Where permitted, these are limited to the time a permit is pulled for the primary use plus 30 days after the Certificate of Occupancy is issued. If this is a primary use, it shall only be permitted in nonresidential.
28. *Contractor's Office (with outdoor storage).* Where permitted, these are limited to the time a permit is pulled for the primary use plus 30 days after the Certificate of Occupancy is issued. If this is a primary use, it shall only be permitted in nonresidential.
29. *Bed and Breakfast Inn.* The State of North Carolina provisions for this use shall be considered as part of the review request. In addition:
 - a. The maximum number of guest bedrooms shall be six (6).
 - b. The inn shall be operated by a resident manager.
 - c. The use shall be located in a structure which was originally constructed as a dwelling.
 - d. The use shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.
 - e. The use of such a facility by any one patron shall be limited to no more than fifteen (15) days per sixty (60) day period.
30. *Firearms and Ammunition Sales.* A business selling firearms or ammunition shall follow all ATF and federal guidelines for such use.
31. *Lawn and Garden Supply (with outdoor display or storage).* Where permitted as a Limited Use, proper screening shall apply.
32. *Small Scale Manufacturing.* As permitted in the Land Use Matrix, small scale manufacturing is encouraged and includes, but not be limited to, artisans, pottery makers, leather goods, bakeries, candle makers, butchers, florists, cheese makers, micro-breweries, and bottle shops.
33. *Wireless Telecommunications Tower.* The purpose of this section is to regulate wireless telecommunications towers with the exception of Amateur Radio Antenna as detailed in X, Special Use Permits.
 - a. Residential Protection. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - b. Location Management.

Commented [JT82]: These aren't legal anyway.
https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-306.4.pdf

Commented [JT83]: Should we limit which residential districts? I can see getting complaints about noise and parking

Commented [JT84]: add "districts" after nonresidential

Commented [JT85]: add "district" after nonresidential

Commented [JT86]: Add bed and breakfast home
 Need to define "inn", "b & b", "SRT", and "hotel"
 NCGS 130 definition of B & B Home and B & B Inn

Commented [JT87]: A commercial structure can be converted to residential - do we want to restrict this?

Commented [JT88]: Restrict to HB-8, LI-8, and HI-0

- i. Encourage the location of towers in nonresidential and less developed areas;
 - ii. Strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - iii. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- c. Visual Impact. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- d. Enhanced Service. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- e. Health and Safety.
 - i. Consider the public's health and safety in regard to communication towers; and
 - ii. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- f. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- g. Lot Size. In the event that a tower or antenna is installed and/or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to; including but not limited to: setback, lot-coverage, and other such requirements.
- h. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide the Director with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the Town. Said information shall include specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build out plan for all other proposed wireless communications facilities within the Town. The Town may share such information with other applicants applying for administrative approvals or special use permits or with other organizations seeking to locate antennas within the jurisdiction of this ordinance provided, however, that the Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- i. Aesthetics.
 - i. Towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.
 - ii. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the tower or antenna site.
 - iii. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.
- j. Lights. No tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, daytime strobes or steady nighttime light or other illumination devices, except as required by the FAA, FCC, or the Town. This restriction against lights shall not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting

Commented [JT89]: Should there be more to this sentence?

sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the lot or parcel.

- k. **State or Federal Requirements.** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with the revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- l. **Building Codes; Safety Standards.** To ensure the structural integrity of towers and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the building code.
- m. **Fall Zone.** No tower or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any tower or antenna, not located a distance equal to the height of the tower plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the tower is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.
- n. **Essential Services.** Wireless telecommunications towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- o. **Signs.** Signs on a tower, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited.
- p. **Permit Requirements.**
 - i. **Zoning Permit.** No wireless telecommunications tower or antenna shall be erected or established unless and until a Zoning Permit has been issued.
 - ii. **Use Tables.** A stealth antennae which does not exceed 65 feet in height is permitted as of right. This provision does not permit antennas in any zoning district where they are expressly prohibited.
 - iii. **Special Use Permit Standards.** In addition to the procedures, standards and criteria set forth for Special Use Permits for towers and antennas shall be issued in accordance with the following provisions.
 - iv. **Towers or antennas 65 feet or more from the average ground level shall require a Special Use Permit.** This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.
 - v. **Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.**

- vi. In determining whether to issue a Special Use Permit, the Board of Adjustments shall consider, in addition to any other standards in this ordinance governing Special Use Permit, the following factors:

- (A) Height of the proposed tower;
- (B) Proximity of the tower to residential and mixed-use structures and district boundaries;
- (C) Nature of uses on adjacent and nearby properties;
- (D) Surrounding topography;
- (E) Surrounding tree coverage and vegetation;
- (F) Design of the tower, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;
- (G) Proposed ingress and egress; and
- (H) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed below.

- q. Availability of Suitable Existing Towers. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction to the Town that no existing tower can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:
- r. No Existing Towers or Structures. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- s. Insufficient Height. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- t. Insufficient Strength. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- u. Electromagnetic Interference. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- v. Unreasonable Expense. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.
- w. Other Factors. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- x. Co-Location.
 - i. Good Faith. Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

Commented [JT90]: remove the "s"

Commented [JT91]: add "s" to permit

Commented [JT92]: make plural

- ii. Exceptions. No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.
- iii. Alternative Technologies. Black Mountain reserves that as technology changes and new alternatives to existing communications technology are introduced, permits may be reviewed by Council on a case by case basis at the recommendation of the Director if they are outside the recommendations of this section.
- iv. Security Fencing. Towers shall be enclosed by security fencing not less than six feet in height and no more than eight feet in height, constructed of vinyl, block, masonry, or wood material, and shall be equipped in such a manner as to deter climbing. Chain link may be used if the fence is completely screened by evergreen plantings.
- v. Landscaping. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Director may waive these requirements in locations where the view of the tower base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.
- y. Buildings or Other Equipment Storage.
- z. Accessory Equipment Structures. The equipment cabinets and other support structures used in association with towers or antennas shall comply with the following provisions:
 - i. Equipment cabinets and/or other structures shall comply with all applicable building codes.
 - ii. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.
- aa. Location of Accessory Equipment Structures. Equipment cabinets and/or structures shall be no greater than 15 feet in height or 300 square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight- obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially or mixed-use zoned property.
- ab. Removal of Abandoned Antennas and Towers.
- ac. Abandonment. Any antenna or tower that is not operated for a continuous period of one year shall be considered abandoned, and the owner of such facility shall physically remove the antenna or tower within 90 days of receipt of notice from the Director notifying the owner of such abandonment. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna for the prescribed period. "Physically remove" shall include, but not be limited to:
 - i. Removal of antennas, mount, equipment shelters and security barriers from the subject property;
 - ii. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations; and
 - iii. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

- ad. Authority to Remove. The Town shall have the authority to call the performance bond required below and use the funds to remove an abandoned antenna, tower, or accessory equipment structures.
- ae. Require Bond. A performance bond shall be set for 1.25 times the estimated cost of removal of all towers, antennas, and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a Zoning Permit. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer.
- af. Nonconforming Towers. No Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
- ag. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Section.
- ah. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding this Section, bona fide nonconforming towers or antennas that are not latticed or guyed that are damaged or destroyed by weather events or other non-manmade causes are not required to conform to the requirements of this Section provided the type, height, and location of the tower on-site shall be of the same type and intensity as the original facility. Any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if the permit expires, the Director may deem the tower or antenna abandoned.
- ai. Separation. Towers shall be separated a distance, as measured from the base, equal to at least the minimum standards below from any preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the preexisting tower and the base location, pursuant to a site plan, of the proposed tower.

Table 1-1 Separation Requirements from Offsite Uses/Areas

Single-family or duplex residential units [1]	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary plat approval which is not expired [2]	
Vacant unplatted residentially zoned land [3]	100 feet or 100% of tower height, whichever is greater
Existing multi-family residential units greater than duplex units	
Non-residentially zoned lands or non-residential uses	None, only setbacks apply
Includes modular homes and mobile homes used for living purposes. Separation measured from base of tower to closest building setback line. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan and any multi-family residentially zoned land greater than a duplex.	

Table X-2 Separation Distances Between Towers		
	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet in height	750 feet	750 feet

~ Special Use Permits

- A. **Generally.** Review of a Special Use Permit is a quasi-judicial procedure whereby the Board of Adjustment verifies that a special use, as noted in X, Land Use Matrix, complies with the requirements of this UDO and is appropriate for the location in question.
- B. **Purpose.** The purpose of a Special Use Permit review is to ensure that a use generally deemed incompatible with permitted uses in a given zoning district can be considered for approval with certain conditions placed on the use as denoted in in this Section.
- C. **Applicability.** An application is required for the establishment of a new special use, a change to a special use, or the expansion of a special use that has not been approved.
- D. **General Criteria.** In determining whether to approve, approve with conditions, or deny a special use, the Board of Adjustment shall consider any applicable provisions of this Section in making its final decision and shall consider the following general criteria for each use below in addition to specific standards listed per use:
1. **Conformity.** The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Comprehensive Plan;
 2. **Ingress and Egress.** Adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads;
 3. **Nuisances.** The proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
 4. **Orderly Development.** The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district;
 5. **Health, Safety, and Welfare.** The establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare; and
 6. **Other Provisions.** The proposed use complies with all other applicable provisions of this UDO.
- E. **Alteration to Approved Special Use Permits.**
1. **Minor Modifications.** Specific minor modifications to special use permits that do not involve a change in use or density may be reviewed and approved administratively include the following:
 - a. Reductions in signage or square footage;
 - b. Increases in landscaping, open space, or setbacks;
 - c. Reorientation of structures that have an impact on the internal site only and do not position service entrances or rear facades alternatively from their original orientation; and
 - d. Realignment of approved ingress and egress as required by NCDOT or the Town of Black Mountain to better facilitate traffic safety.
 2. **Major Modifications.** Any other modification of a special use permit shall follow the same process for approval as is applicable to the approval of a Special Use Permit. If multiple parcels of land are subject to

Commented [JT93]: remove

a Special Use Permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the Special Use Permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.

F. **Specific Special Uses.** The following specific special uses shall be reviewed by either the Board of Adjustment in accordance with X, Land Use Matrix, with provisions applied. If there are no specific standards listed below with a Special Use, they are permitted without pre-set conditions if the Special Use Permit is approved. The Board or Council may include additional restrictions for any use below:

1. **Previous Legal Conforming Uses.** Special Use Permits may be issued on a case-by-case basis for uses that became legal non-conforming upon the adoption of the Town of Black Mountain Unified Development Ordinance effective _____. Use must have been continuous and in good standing with the Town of Black Mountain for application to be considered.
2. **Hunting, Fishing, and Game Preserve (Commercial).** No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
3. **Pet Care Service (with outdoor kennels).**
 - a. **Minimum Distance from Residential.** Any building used for the boarding of animals shall be located at least 200 feet from any residential use or residential zoning district boundary, school, day care facility, or public park, other than a dog park, measured as a radius from property lines of the limited use.
 - b. **Sound-Proofing.** Where the site is located adjacent to a residential use or zoning district boundary, all buildings used for the care or boarding of animals shall be fully enclosed and sound-proofed so animal noises will not be audible from a property line.
 - c. **Hours for Outdoor Dog Runs and Animal Exercise Areas.** Where the site is located adjacent to a residential use or zoning district boundary, outdoor dog runs shall not be used, and no other outdoor animal exercise shall occur, between the hours of 9:00 PM and 8:00 AM.
 - d. **Front Yard Maintenance.** The front yard area shall not be used for animal exercise, and all yards shall be cleared daily of any animal waste.
 - e. **Screening of Outdoor Dog Runs and Animal Exercise Areas.** Any outdoor dog runs or animal exercise areas visible from a public right-of-way or adjacent residential use or zoning district boundary shall be enclosed by a solid masonry or concrete wall or an opaque fence having a minimum height of five feet.
 - f. **No Nuisance Created.** The use shall not create or cause any perceptible noise or odors that constitute a public or private nuisance to neighboring properties.
4. **Correctional Institution.** No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
5. **All Other Governmental Facilities.** No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
6. **Cemeteries & Mausoleums.** No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.

Commented [JT94]: Need to add campgrounds - What about PUD's, Cottage Housing Developments, Manufactured Home Parks, Multi-Family, Downtown Development, Industrial Development

Commented [JT95]: This should only be Board of Adjustment so I think we need to remove the first two sentences and the last sentence should read "The Board of Adjustment may include additional restrictions for any use below"

Commented [JT96]: Need to define "Game Preserve" - game preserves can be an area where animals are safe or an area where animals live in a controlled area for hunting.

Do not support any hunting in the Town limits - it should be noted that you cannot discharge a firearm inside the city limits so if we allow hunting, it needs to be specified that it would have to be done by bow and arrow or something

Commented [JT97]: Do we have any now?

Are they currently regulated/permitted?

Allow in HB, LI-8 and HI only and must comply with buffer, fencing, etc.

Commented [JT98]: Could an argument be made to make these hours the same as our general noise ordinance?

7. Country Club and Golf Course. No special requirements if approved. Additional requirements may be added as part of the review. Restaurants, Pro shops, and other accessory uses customarily associated with such ~~may be allowed as part of an approved Special Use permit. The State of North Carolina~~ provisions for this use shall be considered as part of the review request.
8. Zoo. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
9. Park-and-Ride Facility/Transit Terminals. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
10. Solar Farm. To provide a setting for high tech power generation through solar panels in a solar farm setting, the following regulations shall be met:
 - a. Financial Surety. Prior to the issuance of a Zoning Compliance Certificate, the applicant must provide the Town with a performance guarantee as provided below. The amount of the guarantee shall be 1.25 times the estimated decommission cost minus the salvageable value, or \$50,000, whichever is greater. Estimates for decommissioning the site and salvage value shall be determined by a North Carolina licensed engineer or a licensed contractor. It is the responsibility of the applicant to provide the Town with the certified cost estimate.
 - i. Types Permitted. The following types of performance guarantees are permitted:
 - (A) Bond. A surety or performance bond that renews automatically, includes a minimum 6-day notice to the Town prior to cancellation, is approved by the Planning Director, and is from a company on the U.S. Department of Treasury's List of Certified Companies. A bond certificate must be submitted to the Town each year verifying the bond has been properly renewed.
 - (B) Certified Check. A certified check deposited with the Finance Director, as escrow agent, who will deposit the check in an interest bearing account of the Town, with all interest accruing to the applicant. Funds deposited with the Finance Director will be returned when the solar farm is decommissioned and any necessary site restoration is completed.
 - (C) Letter of Credit. A no-contest irrevocable bond letter of credit from a banking corporation licensed to do business in the State of North Carolina. The terms of the letter must include the absolute right of the Finance Director to withdraw funds from the bank upon certification by the Town Manager that the terms and conditions of the performance guarantee have been breached. The letter must be valid up to 12 months from the date the performance guarantee was approved.
 - (D) Time Effective. The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.
 - (E) Release from Financial Surety. The land owner or tenant must notify the Town when the site is abandoned for the financial surety instrument to be considered released and no longer held by the Town.
 - b. Site Restoration. Each approved solar farm must have a decommission plan submitted by the applicant ensuring the following:
 - i. Plan Requirements. The applicant must include a detailed decommission plan that describe the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and

Commented [JT99]: add "use"

the anticipated manner in which the solar farm project will be decommissioned and the site restored.

- ii. Time Requirement. Following a continuous 6 month period in which no electricity is generated, the permit holder will have 6 months to complete decommissioning of the solar farm. Decommissioning includes removal of solar panels, buildings, cabling, electrical components, and any other associated facilities below grade as described in the approved decommissioning plan.
- c. Installed Improvements Maintenance Standards. Landscape buffer/screens, ground cover, security fences, gates, and warning signs must be maintained in good condition until the solar farm is dismantled and removed from the site.
- d. Fire Safety. A "kill switch" sufficient to take each series of panels out of service and which is accessible by fire safety personnel at any time shall be installed. Such shall be incorporated in the plans and fire safety personnel shall receive a briefing prior to activation.
- e. Fencing. A security fence equipped with a gate and a locking mechanism must be installed at a minimum height of 8 feet along all exterior sides of the solar farm.
- f. Underground lines. Power transmission lines must be located underground to the extent practical.
- g. Voltage Warning Signs. A warning sign concerning voltage must be placed at the main gate to include the name of the solar farm operator and locate phone number for the solar farm operator in case of an emergency.
- h. Authorization from local utility company. The applicant must provide written authorization from the local utility company's grid.
- i. Erosion Control. Erosion control measures must be installed at construction entrances in order to minimize off-site soil damage. Existing grass must be maintained in perpetuity sufficient to prevent erosion.
- j. Parking During Construction. All construction parking must be located outside of the right-of-way.
- k. Permits Required. The applicant must secure all necessary approvals and/or permits from NCDOT for the access permits for project entrances prior to issuance of a Zoning Permit.
- l. Glare. All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic or create a safety hazard.
- m. Buffering and Screening. A landscape buffer/screen along all exterior sides of the security fence must consist of:
 - i. On-site mature vegetation exists at a minimum height of 10 feet and depth of 75 feet between the security fence and adjacent property including rights-of-way; or
 - ii. A single row of evergreens in combination with mature vegetation installed at a height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years; or
 - iii. A double row of off-set evergreens absent mature vegetation, installed at a height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years; or
 - iv. A berm combined with evergreen vegetation installed at a height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years.
- n. Minimum Setbacks. All structures, except the security fencing, must meet a 50-foot front, rear, and side yard setback measured from the appropriate rights-of-way or property line. All structures, except the security fencing, must meet a 50-foot front, rear, and side yard setback measured from the appropriate rights-of-way or property line.

11. Amateur Radio Antenna. The Town, based on health, safety, or aesthetic considerations that regulates the placement, screening, or height of the antennas or support structures of amateur radio operators will reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the Town. The Town may not restrict antennas or antenna support structures of amateur radio operators to heights of 90 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety, or aesthetic objective of the Town.
12. Dance Halls, Night Clubs, Private Clubs, Bars, Lounges, Taverns, Pubs. A special use permit shall be required for a use in this category. This review shall also establish if business hours may extend past 12 am or prior to 7 am.
13. Funeral Home and/or Crematorium. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
14. Tattoo Facility/Body Piercing/Vaping Business. They shall also not be located or operated within 700 feet of a:
 - a. Entertainment Business oriented toward minors
 - b. Licensed group home facility
 - c. Licensed child care facility
 - d. Park or Playground with the exception of a greenway or other public trail
 - e. Public Library
 - f. Public or Private Elementary or Secondary School
 - g. Church, Synagogue, or Regular Place of Worship
 - h. They shall not be located or operated within 300 feet of another tattoo parlor, body piercing shops, vape shops, or any combination thereof.
15. Funeral Home and/or Crematorium. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
16. Liquor Sales (ABC). No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
17. Sexually Oriented Businesses. These businesses should be located in specific areas of the Town which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to provide certainty to the residents and sexually oriented business operators with respect to potential adult use sites.
 - a. Authorization. These regulations are authorized by NCGS § 160D-902.
 - b. Applicability. The provisions of this Section apply to any sexually oriented business/adult establishments.
 - c. Size. The gross floor area is limited to 3,000 with all business activity conducted inside.
 - d. Sleeping Quarters. No sleeping quarters shall be permitted, except for an adult motel.
 - e. Parking. No enclosed or underground parking is permitted.
 - f. Locational Standards.
 - i. Other SOBs. No sexually oriented business or adult establishment shall be located within 2,000 feet of any other sexually oriented business or adult establishment. There shall be one per parcel.

Commented [JT100]: Noise ordinance begins at 11

Commented [JT101]: Would not allow in Town limits - if we must allow, then limit to industrial areas (LI-8 and HI-0)

Commented [JT102]: Confirm that we are adding to list of tattoo and body piercing that we are trying to limit within town limits

Commented [JT103]: Delete - this is already number 13

Commented [JT104]: Should be "this is necessary"

Commented [JT105]: Do we need a definition of an "adult motel"?

- ii. Sensitive Uses. No sexually oriented business or adult establishment shall be located within 2,000 feet of a public or private elementary or secondary school, Day Care use category, public or private recreation center, religious institution, or a public park.
 - iii. Residentially Zoned or Used Property. No sexually oriented business or adult establishment shall be located within 2,000 feet of any residentially zoned or used property.
 - iv. ABC Licensed Facility. No sexually oriented business or adult establishment shall be located within 2,000 feet of a business with an active ABC License.
 - v. Protected Corridors. MAKE LIST.
 - g. Signs and Displays. Signs shall be regulated in accordance with 156.60, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.
 - h. Minimum Distances Not Eligible for Variance. The minimum separation distances within this section are not eligible for variances.
18. Fuel Sales. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
19. Manufactured and Modular Home and Storage Building Sales. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
20. Resource Extraction Uses. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
21. Landfill. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
22. Salvage Yard (including vehicles). No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
23. All Other Waste Related Service. No special requirements if approved. Additional requirements may be added as part of the review. The State of North Carolina provisions for this use shall be considered as part of the review request.
24. Additional Accessory Structures. Special Use permits may be issued by the Board of Adjustment for additional residential accessory buildings exceeding guidelines when property exceeds 2 acres.
- G. **Additional Requirements from the Board of Adjustment.** In granting a Special Use Permit, the Board of Adjustment may impose additional restrictions and requirements upon such Special Use Permit as it may deem necessary in order that the purpose and intent of this UDO are served as long as they follow the limitations of X and have the statutory authority to do so.

Commented [JT106]: Please clarify.

Commented [JT107]: Don't allow in Town limits

Commented [JT108]: Don't allow in Town limits

~ Accessory Use and Structure Standards

- A. **Generally.** Permitted accessory uses and structures are permitted based upon the regulations herein. If a Primary use is listed as prohibited in a zoning district but is permitted as an Accessory Use, the use is permitted only as an accessory use to a principal use or principal building on the same property.
- B. **Required to be Incidental.** The use or structure is clearly incidental to and customarily found in connection with a principal building or use.
- C. **Required to be Subordinate.** The use or structure is subordinate to and serves a principal building or principal use; is subordinate in area, extend, or purpose to the principal building or principal use served; contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or principal use served; and is located on the same zone lot as the principal building or use served.
- D. **Where Permitted.** Accessory Uses and Structures are permitted in accordance with X, Land Use Matrix.
- E. **Establishment.** Accessory uses and structures shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established. Accessory buildings shall not be used for dwelling purposes.
- F. **Location.**
1. **Required Setbacks.** Accessory uses and structures shall not be erected in any required front yard, except as provided for below for lots over two acres in size, or within twenty (20) feet of any side street on a corner lot. In addition, accessory uses and structures shall be located a minimum of five feet from a side or rear property line.
 2. **Double Frontage Lots.** Accessory uses and structures on double frontage lots shall not be closer to either street than the required front yard setback.
 3. **Distance from Principal Structure.** All accessory uses and structures shall meet building code requirements for separation.
 4. **Residential Lots Below Two Acres.** For residential lots not exceeding two acres, detached accessory buildings shall not occupy more than 30 percent of the required rear yard. Not more than 2 accessory structures will be allowed without a Special Use Permit.
 5. **Residential Lots Two Acres or More.** For residential lots that are two acres or more, detached accessory buildings may be located in the front yard but not closer than 75 feet from the front property line/street right-of-way. Not more than 2 accessory structures will be allowed without a Special Use Permit. Lots 10 acres or more within the town limits may request Special Use Permits for accessory structures that exceed the size limitation.
 6. **Nonresidential Accessory Structures.** The location of permitted accessory structures associated with a non-residential use shall be governed by the same dimensional regulations as set forth for the principal use structure(s).
- G. **Height.** Accessory structures shall not exceed the standard height regulations of the zoning district when the accessory structure is located within the buildable lot area or fifteen feet in height, where the accessory structure is located within a principal structure setback area.
- H. **Size.** An accessory building shall not exceed the ground floor area of the principal building.
- I. **Lighting.** Exterior lighting for accessory uses and/or structures shall be placed so as to not directly or reflect light upon adjoining land.
- J. **Exemptions.** The following uses/structures shall be exempt from the provisions of this Section:
1. **Fencing and Walls.** Fences and walls are excluded from these provisions; however, in no case shall a rear or side yard fence exceed seven feet with the exception of recreation facility fences. Front yard fences shall not exceed five feet in height.

Commented [JT109]: Should this be "must be"

Commented [JT110]: Not understanding what this is supposed to mean?

Commented [JT111]: delete

Commented [JT112]: add "of" before 10

Commented [JT113]: remove

Commented [JT114]: Should we add something about sight visibility if at a corner or intersection? Could just reference to that section.

2. Mailboxes. Mailboxes shall be regulated by the USPS and are permitted to be located within the setback provided they are not a structural element that interferes with visibility.
 3. Plant materials. Plants are not considered setback violations unless they interfere with the site triangle or vehicular visibility.
 4. Any structure or improvement, once installed, is at grade or less than one foot above grade. These additions are not considered setback violations.
- K. **Approval of Accessory Uses and Structures.** The standards in this Section apply to accessory uses and structures that are listed as permitted subject to limitations or that require a Special Use Permit in X.
- L. **Specific Use Standards for Certain Accessory Uses and Structures.** Certain accessory uses and structures require additional standards as follows:

Commented [JT115]: Are there any others from the existing code that need to be added?

1. Swimming Pools. A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district subject to the following standards:
 - a. Location.
 - i. The swimming pool and incidental installations shall not be located in the front yard.
 - ii. The swimming pool shall be set back from all lot lines a distance of not less than five feet.
 - b. Screening. All swimming pools shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four feet in height.
 - c. Building Code Requirements. All swimming pools must also meet the requirements for the North Carolina State Building Code, including fence requirements.
2. Solid Waste Storage Areas. Solid Waste Storage Areas for all uses not employing roll cart garbage collection shall meeting the following requirements:
 - a. Screening.
 - i. Required. Solid waste dumpsters or other large containers for solid waste or recycling storage shall be confined in an enclosed area that is screened on all sides.
 - ii. Size and Material. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), shall be of solid opaque construction, six-foot high with latching gates providing access, and shall be composed of materials consistent and compatible with those of the principal building(s) on the site.
 - b. Location. No solid waste storage area shall be located in any front building yard setback or any street yard or buffer yard.
 - c. Lid Required. Solid waste dumpsters or other large containers for solid waste storage shall have a lid to minimize the potential contamination of stormwater runoff.

Commented [JT116]: remove

Commented [JT117]: "and keep bears out" - Should say "bear-proof" garbage cans are encouraged or something to that effect

3. Home Occupation.

- a. Purpose. Home occupations provide for the use of a residential dwelling unit for limited business purposes subject to regulations that are designed to maintain the residential character of the dwelling unit, lot, and neighborhood; minimize the conflict of the home occupation with the surrounding residential uses, and to protect residential property values.
- b. Building Character.
 - i. Signage. There is no exterior indication of the home occupation, except that a single unlighted placard with a maximum size of two square feet may be affixed securely and flat against the street-facing facade of the dwelling.
 - ii. Entrance. No entrance is specifically dedicated for the home occupation, unless otherwise required by law.

iii. Exterior Alterations. No external alterations or construction or reconstruction of the dwelling unit on the lot to accommodate the home occupation is permitted that alters the residential character of the dwelling.

iv. Maximum Floor Area. Not more than 25 percent of the gross floor area of the principal dwelling unit shall be devoted to a home occupation. If a home occupation is to be conducted in an accessory structure, such as a garage or other building properly permitted on the property, the home occupation may use the entire structure as long as the structure meets size standards appropriate for the district.

c. Parking. No additional parking spaces other than those for the primary residence are permitted to be constructed to accommodate the home occupation. This is reflective of keeping in line with the residential character. Any additional paving should be residential in character.

d. Operations.

i. Employees. No more than two persons shall be present and working at the home occupation at one time, other than the residents of the dwelling. This includes people who have entered into a contract to provide services for the home occupation.

Commented [JT118]: No employees

ii. Traffic. The home occupation will be conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes.

iii. Outside Storage. There shall be no outdoor display or storage of goods, materials, merchandise, or equipment related to the home occupation that is visible from the exterior of the dwelling unit.

iv. Deliveries. The home occupation will not require the delivery or shipment of materials, merchandise, goods, or equipment by other than passenger motor vehicles, one ton step-up vans, or similar-sized trucks similar to what is received in a normal residential delivery setting.

v. Risk. The home occupation will not be more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to a dwelling unit used solely for residential purposes.

vi. Required Conformance. The home occupation will be operated in accordance with all applicable laws and, if a state permit is required, such permit shall be obtained with a copy provided to the County prior to beginning operation.

vii. Hazardous Materials Prohibited. There will be no hazardous materials or processes used in conjunction with the proposed home occupation other than those approved by SCDHEC for a home setting.

viii. Nuisance. The home occupation shall not create offensive or objectionable noise, vibration, odors, heat, dirt, traffic, or electrical disturbance perceptible by the average person beyond the lot line of the subject premises.

e. Approval Subject to Review. Before permitting this type of use, the Administrator may refer this matter to the Planning and Zoning Board who reserves the right to hold a public hearing on the proposed home occupation. Notification and posting of the property shall follow rezoning guidelines set forth in this ordinance.

Commented [JT119]: Not a fan.

Commented [JT120]: remove

4. Portable On-Site Storage.

a. Generally. The following requirements apply to any residential zoned or used property upon which a portable on-site storage unit is to be placed.

b. Number. There shall be a maximum of two portable on-site storage units per parcel at any one time.

- c. Location.
 - i. A unit shall be placed in the side or rear yard only. However, the unit may be placed in the front yard if side and rear areas are not accessible, as determined by the Director (unless the unit adversely impacts safety, sight triangles, or emergency response access).
 - ii. A unit shall be placed a minimum of five feet from side and rear property lines. There is no minimum spacing between units.
 - d. Tenure. A unit may remain on the parcel for a maximum of 90 days per calendar year without obtaining a Temporary Use Permit. A written reason, timeline, and completion date must be submitted by the applicant prior the issuance of the permit.
 - e. Exemptions.
 - i. Any commercial or residential construction site with active Zoning and Building Permits may have as many storage units as are needed on the site without restrictions or permits.
 - ii. The Temporary Use Permit fee may be waived in the case of damage as a result of fire, storm, flood, or other disaster events.
 - iii. The above restrictions do not apply to any parcel greater than five acres in size.
5. Recycling Facilities and Drop Off Sites.
- a. Unattended Clothing Donation Containers. Unattended clothing donation containers are prohibited unless located at the operational site of a company or organization that collects used clothing for resale or donation as a primary business function.
 - b. Removal of Prohibited Clothing Donation Containers. Prohibited clothing donation containers that exist at the time this section is adopted shall be removed within 30 days of adoption.
6. Short-Term Rentals. NOT YET COMPLETE.
- A. Intent. It is the intent of this ordinance and standards below to preserve and protect the long-established, traditional single-family neighborhoods within the Town while allowing those desiring to operate short-term rentals to do so without detriment to those neighborhoods. Short-Term Rentals are lodging uses, as they are typically rented for less than 30 days.
- B. General requirements.
- 1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of "bedrooms" used in calculating occupancy limits shall be taken from the property tax records. For example: a two bedroom rental would have an occupancy limit of 6 (2×2 bedrooms = 4 + 2 additional = 6 total).
 - 2. Appearance: Dwelling units used as short-term rentals in X zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
 - 3. Parking: Parking requirements shall be provided for the type of dwelling unit, per Chapter X of this ordinance.
- C. Exemptions: The following activities shall not be considered as a Short-Term Rental use and the requirements of this subsection shall not apply to them.
- (a) Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
 - (b) Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.
7. Food Truck Courts.

Commented [JT121]: This is language to provide planning board a starting point. This is taken directly from Brevard. I will e-mail links for other references.

Commented [JT122]: We just determined this year that these are a principle use.

- a. Food truck courts are permitted as accessory uses to uses in the following use categories:
 - i. Community Amenities;
 - ii. Educational Facilities;
 - iii. Medical Facilities;
 - iv. Parks and Open Areas;
 - v. Public Assembly;
 - vi. Entertainment, Indoor;
 - vii. Entertainment, Outdoor;
 - viii. Office; or
 - ix. Retail Repair, Sales, and Service.
- b. The food truck court shall not be located in any required setback, sight triangle, or buffer.
- c. The operator of a food truck shall obtain, in writing, and have on hand, the property owner's permission to operate on the property.
8. Metal Carports. Metal carports are not permitted within the Town limits.
9. Shipping Containers. Shipping containers shall not be used as storage unless in an industrial zoning classification in the Town limits unless authorized by a federal, state, or local government purpose.

Commented [JT123]: I don't think we can regulate this.

Commented [JT124R123]: We already allow these and I think we could get into some dicey territory trying to regulate materials.

Commented [JT125]: Generally this is fine, but need to add something like "unless it has been altered to meet the requirements of the NC building code."

~ Temporary Use and Structure Standards

- A. **Generally.** Permitted temporary uses and structures are set forth in Table X-1, Permitted Temporary Uses and Structures.
- B. **Purpose.** The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Director is required.
- C. **Permitted Temporary Uses.** The uses listed below, shall be permitted by right (unless noted otherwise) in each of the listed zoning districts.

Table X-1 Permitted Temporary Uses and Structures									
TP = Temporary Permitted Use		-- = Prohibited Use		Maximum Events per Year / Days per Event (Duration Column)					
Temporary Use	Duration (Maximum Events per Year/Days per Event)	Zoning Districts							
		Residential				All Other Districts			
Amusement Enterprises	1 / 21								
Commercial Outdoor Sales Event	4 / 7								
Contractors' Office (Temporary)	N/A1								
Fireworks Stand	1 / 45								
Food Truck	365 / 1								
Outdoor Circus, Carnival, Exhibition, or Show	1 / 30								

Table X-1 Permitted Temporary Uses and Structures									
TP = Temporary Permitted Use		-- = Prohibited Use	Maximum Events per Year / Days per Event (Duration Column)						
Temporary Use	Duration (Maximum Events per Year/Days per Event)	Zoning Districts							
		Residential				All Other Districts			
Real Estate Office in a Construction Trailer or Temporary Modular Unit	N/A1								
Real Estate Office in a Model Home	N/A1								
Seasonal Sale of Agricultural Products	4 / 30								
Sidewalk Vendor	3 / 45								
Temporary Residence in Mobile Home During Construction of New Home	N/A ¹								
¹ These uses do not have a time limit, but the use must be ceased and removed from the property within 60 days after the Certificate of Occupancy is issued for the final principal structure (i.e. last home in development, last office building, single-family residence).									

- D. **Review Criteria.** All temporary uses listed in this Section require a Temporary Use Permit. The Director shall not approve or modify and approve an application for a Temporary Use Permit unless the following general criteria, specific regulations and time limitations are met in addition to standards for any particular temporary use as specified.
1. **Compatibility with and/or Effect on Surrounding Area.** The allowance of such use shall not be detrimental to the public health, safety, and general welfare, and the use shall be consistent with the purpose and intent of this UDO and the specific zoning district in which it will be located. The use must also be compatible in intensity, characteristics, and appearance with existing land uses in the immediate vicinity of the temporary use. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.
 2. **Public Convenience and Litter Control.** Adequate public restroom facilities and waste containers shall be required on-site.
- E. **Cessation of Use.** After the temporary use is finished, the site shall be returned to its condition prior to the temporary use being established, including, but not limited to, removal of all litter and any other facilities related to the use, at no expense to the Town of Black Mountain.
- F. **Outdoor Lighting.** All light sources must be directed inward to the site and downward and away from adjacent properties.
- G. **Utilities.** Temporary uses must provide sufficient potable water and adequate sewage disposal.
- H. **Number per Parcel.** Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time. If additional temporary uses are desired, the Board of Adjustment may permit under a Special Use Permit in accordance with X.

- I. **Signs.** Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted in accordance with the sign standards in X.
- J. **Property Line Setbacks.** Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way.
- K. **Parking and Access.** Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal use. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
- L. **Traffic.** The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.
- M. **Location (Permission Required).** The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.
- N. **Emergency Access.** The use shall not block drive aisles, other access to loading/service areas, or emergency access and fire lanes. It must also be positioned at least 15' away from fire hydrants, any fire department connection, driveway entrances, and accessible parking spaces.
- O. **Period of Time Between Permits.** The period of time an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on that parcel shall be at least three months. This restriction shall not apply to real estate development and constructed related temporary uses.
- P. **Similar and Compatible Uses not Specified.** If a particular temporary use is not listed in this UDO, the Director shall have the authority to grant a temporary use permit for a similar and compatible use. Determination of what constitutes similar and compatible shall be made by the Director. In such instances, the applicant shall provide the following information:
 - 1. Type of use;
 - 2. Number of employees;
 - 3. Parking/circulation needs/hours of operation; and
 - 4. Duration of operation.
- Q. **Appeals.** If the Director determines that the use is not similar and compatible, the applicant may appeal the decision to the Board of Adjustment.

Current Land Use Code: Chapter 5 – 5.6 Home Occupations	Draft UDO: Accessory Use and Structure Standards - L.3 Home Occupations
Zoning District:	
All districts except HI-0, although a home occupation may be integrated into a pre-existing residential structure in the HI-0 district.	No zoning district language.
Minimizing Impact / Conflict:	
The intent of these regulations is to allow for home occupations throughout Black Mountain while minimizing the <u>impact</u> on neighbors and maintaining the same levels of <u>noise</u> , <u>traffic</u> , <u>parking</u> and <u>other characteristics</u> of the surrounding residential properties.	Home occupations provide for the use of a residential dwelling unit for limited business purposes subject to regulations that are designed to maintain the residential character of the dwelling unit, lot, and neighborhood; minimize the <u>conflict</u> of the home occupation with the surrounding residential uses, and to protect residential <u>property values</u> .
Prohibited Nuisances:	
Noise, odors, smoke, glare, dust, gases, excessive traffic, electrical or other radiation, or other characteristics of a type or to an extent which create a nuisance or hazard to adjacent or neighboring residential properties. No hazardous material language.	Parking or traffic congestion, noise, vibration, odors, heat, dirt, traffic, or electrical disturbance perceptible by the average person beyond the lot line of the subject premises. No hazardous materials except those approved by SCDHEC for a home setting.
Accessory Structure:	
If conducted in an accessory structure, only in a garage or other accessory structure that meets the requirements of the building inspector. May be conducted in an accessory structure.	No accessory structure language related to building inspector.
Display of Stock:	
No display of stock visible from outside.	No display of stock language.
Shipments:	
Order fulfillment allowed, as long as goods are stored indoors.	Deliveries only by passenger motor vehicles, one ton step-up vans or similar to customary residential delivery.
Deliveries only between 9:00 a.m. and 5:00 p.m.	No time limit language.
Outdoor Storage:	
No outdoor storage, unless of a type and quantity appropriate for the principal residential use.	No outdoor storage that's visible.
Business Identification:	
In residential districts, only permitted if attached to the primary or secondary structure and no more than 4 square feet.	A single unlighted placard of no more than 2 square feet attached against the street-facing façade.
Parking and Vehicle Type:	
Off-street parking of no more than 4 spaces.	No additional parking other than that for the primary residence.
Only vehicles used primarily as passenger vehicles.	No vehicle-type language.

Commented [JT1]: This will be in the table of permitted uses.

Commented [JT2]: Not all accessory structures are required to meet building code (small shed could be a jewelry studio for example).

Commented [JT3]: We can't control what sort of truck shipping companies use. For example, once I ordered a stove and an 18 wheeler showed up at my house. Individuals also have limited ability to schedule deliveries of any kind. UPS shows up at my house at 8pm sometimes.

Current Land Use Code: Chapter 5 – 5.6 Home Occupations	Draft UDO: Accessory Use and Structure Standards - L.3 Home Occupations
Adult Day Care Homes and Child Care Homes:	
Maximum 5 unrelated persons, annual certificate of occupancy.	<i>No Adult Day Care Home or Child Care Home language.</i>
Employees:	
No one who resides outside of the residence may work in the home.	Maximum of two employees other than the residents of the dwelling.
Square Feet:	
Occupation shall occupy no more than 25% of the total floor area, not to exceed 500 square feet.	Occupation shall occupy no more than 25% of the gross floor area. If occupation is in an accessory structure, entire structure may be occupied.
Approval:	
Home occupation application, including zoning verification, required.	Occupation will be operated in conformance with all applicable laws. If State permit required, copy shall be provided to County.
<i>No Planning and Zoning Board language.</i>	Administrator may refer the matter to the Planning and Zoning Board, which may hold a public hearing on the proposed home occupation.
Entrance:	
<i>No entrance language.</i>	No entrance specifically dedicated to the occupation.
Exterior Alterations:	
<i>No exterior alteration language.</i>	No exterior alteration to accommodate the occupation is permitted if it alters the residential character.

Sept 12 noon
deadline for notations

4.7.14 Table of uses by zoning district.

Table of Uses for Zoning Districts

Category	Uses	CR-1	SR-2	TR-4	UR-8	NMU-8	OI-6	CBD	HB-8	LI-8	HI-0
Special Uses	Conservation Subdivision	S	S	S	S	S	S	S			
Special Uses	Cottage Housing Development (CHD)	S	S	S	S	S	S	S	S		
Special Uses	Industrial Park Development							S	S	S	S
Special Uses	Planned Unit Development (PUD) - Commercial					S	S	S	S	S	S
Special Uses	Planned Unit Development (PUD) - Residential	S	S	S	S	S	S	S	S	S	S
Residential	Manufactured Home Parks			S	S			S	S	S	
Residential	Manufactured Homes on individual lots	A	A	A	A						
Residential	Multi-family residential	S	S	S	S	S	S	S	S	S	
Residential	Secondary Dwellings	A	A	A	A	A		A			
Residential	Shared housing/Community living facilities				P	P	P	P	P	P	P
Residential	Single-Family Residences	P	P	P	P	P	P	P	P	P	
Residential	Two-family Residences (duplex)	P	P	P	P	P	P	P	P	P	
Public/Institutional	Government facilities	P	P	P	P	P	P	P	P	P	P
Public/Institutional	Group home					P		P	P	P	P
Public/Institutional	Hospitals								P	P	P
Public/Institutional	Meeting halls for civic, social, and fraternal uses							P	P	P	P
Public/Institutional	Places of worship	P	P	P	P	P	P	P	P	P	P
Public/Institutional	Boarding House	A	A	A	A	A	A	A			
Public/Institutional	Conference Centers					P		P	P	P	P
Public/Institutional	Cultural, Community Facilities							P	P	P	P
Public/Institutional	Educational facilities						P		P	P	P
Public/Institutional	Family Care Homes	A	A	A	A	A	A	A	A	A	
Public/Institutional	Public utilities	P	P	P	P	P	P	P	P	P	P
Other	Accessory Structures	P	P	P	P	P	P	P	P	P	P
Other	Agriculture	A	A	A	A	A	A		A		

RI-LO site
inappropriate density except Sutton, Cherry State, Broadway historic cume'l district

MTB incompatible density in conservation resid'l

CR SR TR UR NW OI CB AB LI HI																
Other	Automobile parking (principal use)															P
Other	Campgrounds											A			A	A
Other	Camps, summer	P	P	P	P	P						P			S	S
Other	Communications towers														S	S
Other	Laboratories and research facilities														P	P
Other	Outdoor Theater														P	P
Other	RV, camper hook-up											A				
Industrial	Breweries/Distilleries/Wineries/ Cideries											P	P	P	P	P
Industrial	Chemical treatment														P	P
Industrial	Crematories															P
Industrial	Distribution														P	P
Industrial	Freight handling facilities														P	P
Industrial	Junkyards and salvage yards															S
Industrial	Manufacturing															P
Industrial	Manufacturing, light (indoor)														P	P
Industrial	Recycling sorting, processing, or storage														P	P
Industrial	Warehousing														P	P
Industrial	Wood and Yard Waste Facility															P
Commercial	Adult Establishments														S	
Commercial	Agriculture	A	A	A	A	A	A	A				A			A	
Commercial	Amusements and entertainment uses														P	P
Commercial	Animal services														P	P
Commercial	Art studio and galleries														P	P
Commercial	Automotive sales, rental and service														P	P
Commercial	Bank and financial services														P	P
Commercial	Bar														P	P
Commercial	Bed and Breakfast Homes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial	Bed and Breakfast Inns	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Commercial	Building material sales														P	P
Commercial	Business services													P	P	P

temporary outdoor theatre as part of festival, events permit or distillery

