

GATLINBURG REGIONAL  
ZONING ORDINANCE

AS OF JUNE 2009

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THE ZONING ORDINANCE OF THE  
GATLINBURG, TENNESSEE PLANNING REGION

AUTHORITY

An ordinance in pursuance of the authority granted by Section \_\_\_\_\_, Tennessee Code Annotated, and for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts in the territory lying within the Gatlinburg Planning Region but outside the corporate limits of the City of Gatlinburg, Tennessee; to regulate, within such districts, the location, construction, height, bulk, number of stories and size of buildings and structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities and other purposes. Special districts or zones may be established in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Tennessee the eligibility for flood insurance under Public Law 1-16, 84th Congress, or subsequent related laws or regulations promulgated thereunder.

Be it ordained by the City of Gatlinburg:

ARTICLE I. SHORT TITLE

This ordinance shall be known as the Zoning Ordinance of the Gatlinburg, Tennessee, Planning Region, dated \_\_\_\_\_. The zoning map shall be referred to as the Zoning Map of the Gatlinburg, Tennessee Planning Region, and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

ARTICLE II. PURPOSE

This zoning regulation and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration among other things, as to the character of each district and its particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the region.

### ARTICLE III. DEFINITIONS

Scope. For the purpose of this ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm, partnership or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Definitions. The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them:

**ACCESS:** The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

**ACCESSORY BUILDING:** A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

**ACCESSORY USE:** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

**ADVERTISING:** Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, milestones, signboards, billboards, wallboard, frames, supports, fences, or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

**AGRICULTURAL USE:** This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, sviticulture, floriculture, forests, and woods.

**AREA, BUILDING:** The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

**AUTOMOBILE WRECKING, JUNK, AND SALVAGE YARDS:** Any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

**AVERAGE GROUND ELEVATION:** The average elevation of the mean finished grade adjoining the building at all exterior walls.

**BASEMENT:** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevation or when subdivided and used for commercial activities.

**BUILDING:** Any structure having a roof supported by columns or by walls, including tents, lunch wagons, dining cars, mobile homes, and similar structures whether stationary or movable.

**BUILDING, MAIN OR PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is situated.

**BUILDING SETBACK LINE:** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

**BUILDING OFFICIAL:** The officer or designated authority charged with the administration and enforcement of this and other related (i.e., building) codes, or his duly authorized representative.

**CAMPING GROUND:** A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

**COMMERCIAL FEED LOT:** Any parcel of land on which 100 or more cattle, fowl or hogs are being kept and fed for the purpose of slaughter and sale on the commercial food market.

**CLUB:** Buildings and facilities owned or operated by a person, society, agency, corporation, institution, or other group that received pay for the care of eight or more children under 17 years of age for less than 24 hours per day, without transfer of custody. The term "Day Care Center" also includes child development centers, nursery schools, day nurseries, play-schools, and kindergartens, as well as agencies providing before and after-school care, regardless of name, purpose or auspices. (Excluding schools graded 1-12 and kindergartens operated by governmental units or by religious organizations).

**DISTRICT:** Any section or sections of the territory lying within the Gatlinburg Planning Region but outside the corporate limits of the City of Gatlinburg, for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are in force.

**DWELLING, MULTIPLE:** An attached building designed for occupancy by two or more families living independently of each other.

**DWELLING UNIT:** One or more rooms and a single kitchen designed as a unit for occupancy by only one family for cooking, living, and sleeping purposes.

**FAMILY:** One or more persons related by blood, marriage, or adoption, or a group of not to exceed five (5) persons not all related by blood or marriage, occupying the premises and living

as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

**FLOOD:** For the purpose of this ordinance, land subject to flood shall be land along any stream that lies below the elevation of the 100-year Flood. Along streams for which 100-year flood data is not known, floodable land is any land which is below the elevation reached by an overflow rising six (6) feet above median streamflow elevation.

**FLOOR AREA:** The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

**FRONTAGE:** All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end street.

**HEIGHT OF BUILDING:** The vertical distance from the average ground elevation at the building line to the highest point of the building.

**HOME OCCUPATION.** An occupation for gain or support which is customarily conducted in the home, which is incidental to the use of the dwelling unit, which employs not more than two persons not residents of the premises, and not more than thirty (30) percent of the actual floor area is used for home occupation purposes.

**JUNK YARD OR SALVAGE YARD:** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

**LIVERY OR BOARDING STABLE:** Any parcel of land which is utilized to board ten (10) or more horses which are owned by persons not residing on the premises.

**LIVESTOCK FEEDING YARDS:** An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing.

**LOT:** A piece, parcel or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under this ordinance.

**LOT DEPTH:** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**LOT FRONTAGE:** That dimension of a lot or portion of a lot abutting on a street.

**LOT LINES:** The boundary dividing a given lot from the street, an alley or adjacent lots.

**LOT OF RECORD:** A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.

**LOT WIDTH:** The width of a lot at the building setback line measured at right angles to its depth.

**MEDICAL FACILITIES:**

**Convalescent, Rest, or Nursing Home:** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**Dental Clinic or Medical Clinic:** A facility for the examination and treatment of ill and afflicted human outpatients, provided, however, that patients are not kept overnight except under emergency conditions.

**Dental Office or Doctor's Office:** Same as dental or medical clinics.

**Hospital:** An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are and integral part of the facility.

**Public Health Center:** A facility primarily utilized by a health unit for the provision of public health services.

**MOBILE HOME:** A detached residential dwelling unit built on a chassis and designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location or jacks or other temporary foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home.

**MOBILE HOME PARK:** Any area, tract, site or plot of land whereupon mobile homes as herein defined are placed, located or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

**NONCONFORMING USE:** A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated.

**PLANNED UNIT DEVELOPMENT:** A planned residential, commercial, or industrial development, professionally designed as a unit, and approved by the Gatlinburg Regional Planning Commission, on a site of not less than one (1) acre, and located on those areas zoned for its use.

**PLAT:** A map, plan, or layout indicating the location and boundaries of individual properties.

**PROFESSIONAL OFFICE:** The office of a physician, dentist, attorney, architect, engineer, urban planner, accountant, or related professions.

**PRINCIPAL USE:** The specific primary purpose for which land or a building is used.

**SIGN, BILLBOARD, OR OTHER ADVERTISING DEVICE:** Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city or other political unit.

**OFF PREMISE SIGN:** A sign relating to a product, service, or establishment that is not on the premises on which the sign is located.

**ON-PREMISE SIGN:** A sign relating to a product, service, or establishment that is located on the premises on which the sign is located.

**REGULATION GOLF COURSE:** An area or course, whether for public or private use, with at least nine (9) holes for playing a game golf and improved with tees, greens, fairways, and hazards, and consisting of a minimum of one hundred and fifty (150) acres.

**STORY:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

**STREET:** A public thoroughfare which affords the principal means of access to abutting property.

**STRUCTURE:** Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, walls, and fences.

**TOURIST RESIDENCE:** Any dwelling used for the overnight and/or weekly rental to tourists.

**TRAVEL TRAILER:** A vehicular or portable structure designed as a temporary dwelling for travel, recreation, or vacation uses.

**TRAVEL TRAILER PARK:** A parcel or area of land designed and equipped to accommodate travel trailers for short periods of time.

**USE:** The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

**YARD, FRONT:** The required open space, unoccupied by structures between the road or street right-of-way line and the principal building.

**YARD, REAR:** The required space, unoccupied except by a building or accessory use is herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

**YARD, SIDE:** The required space unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

Development within the required yard areas are prohibited without written approval of the Gatlinburg Regional Board of Zoning Appeals unless otherwise exempted herein.

Exempted from review by the Regional Board of Zoning Appeals and deemed appropriate in required yard areas are the following instances:

- a) Driveways and related drainage accessories limited to one point of access,
- b) Sidewalks,
- c) Fences in residential instances, and commercial instances subject to approval by the Environmental Design Review Board.
- d) Signage per other ordinance provisions,
- e) Planters in all districts,
- f) Steps which are part of the sidewalk system in all districts,
- g) Parking in all districts,
- h) The planting of trees and vegetation that does not obstruct traffic vision.
- i) Roof overhangs in the amount of 1.5 inches for every one foot of building setback and 1.5 inches for every one foot of roofline height from average grade, not to exceed 60 inches in CL-1 zones, and 36 inches in CL-2 and CL-3 zones. In residential zones, roof overhangs in the amount of one inch for every one foot of building setback and one inch for every one foot of roofline height from average grade, not to exceed 36 inches.
- j) Retaining walls within the front yard area solely to retain driveway, parking and turnaround areas for the principal building.

If there is any question of the acceptability of proposed development within the required yard areas, the Board of Zoning Appeals must review and approve said proposal prior to issuance of a building permit.

## ARTICLE IV. GENERAL PROVISIONS

401. Continuance of Nonconforming Uses. Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this ordinance with the following limitations:

- 401.1. No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior /-to the time of enactment of this ordinance;
- 401.2 Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determined that the building is damaged to the extent of more than seventy-five (75) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance;
- 401.3 When a nonconforming use of any building or land has ceased for a period of one year, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance.

402. Off-Street Automobile Parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least two hundred square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street..."except backing into the public right-of-way may be permitted on certain lots subject to the following conditions:

- 1. The lot must be located in an RR-1 zoning district;
- 2. The lot must be located adjacent to a minor residential street;
- 3.
- 4. The on-site parking area must be level with the street;
- 5. The area utilized for parking and backing out must be situated in such a manner as to insure adequate and safe sight distances as determined by the Gatlinburg Building and Planning Departments;
- 6. The average slope of the proposed building site must exceed 30 percent (as verified by a licensed surveyor)."

- 402.1. Automobile repair garages: One space for each regular employee plus one space for each 250 square feet of floor space used for repair work.
- 402.2. Churches: One space for each four (4) seats.
- 402.3. Clubs and lodges: One space for each three hundred (300) square feet of floor space.
- 402.4. Dwellings:
  - 402.4.1. Single and duplex - one space for each unit.
  - 402.4.2. Multi-family - one and one-half space for each unit.
- 402.5. Funeral Parlors: One space for each four (4) seats in the chapel.
- 402.6. Gasoline service stations and similar establishments: Four (4) spaces for each bay or similar facility plus one space for each employee.
- 402.7. Hospitals and nursing homes: One space for each two staff or visiting doctors plus one space for each two employees and one space for each four beds, computed on the largest number of employees on duty at any period of time.
- 402.8. Hotel: One space for each four (4) employees plus one space for each room.
- 402.9. Industry: One space for each three (3) employees, computed on the largest number of persons employed at any period during the day or night.
- 402.10. Motels: One space for each four (4) employees plus one space for each room.
- 402.11. Offices:
  - 402.11.1. Medical - one space for each three hundred (300) square feet of floor space.
  - 402.11.2. Other professional - one space for each four hundred (400) square feet of, floor space.
  - 402.11.3. General - one space for each four hundred (400) square feet of floor space.
- 402.12. Places of public assembly: One space for each five (5) seats in the principal assembly room or area.
- 402.13. Recreation and amusement areas' without seating capacity: One space for each five (5) customers, computed on maximum service capacity.

- 402.14. Restaurants: One space for each four (4) employees, plus one space for each one hundred (100) square feet of floor space devoted to patron use.
- 402.15. Retail business and similar uses: One space for each two hundred (200) square feet of gross floor space.
- 402.16. Schools: One space for each faculty member, plus one space for each four (4) pupils except in elementary schools.
- 402.17. Mobile home parks: One space for each mobile home.
- 402.18. Wholesale business: One space for each three (3) employees based on maximum seasonal employment.
- 402.19. If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner, and shall be dedicated to this use and the dedication recorded with the Register of Deeds of Sevier Co.
- 402.20. Extension of parking space into a residential district: Required parking space may extend up to 120 feet into a residential zoning district provided that: (1) the parking space adjoins a commercial or industrial district; (2) has its only exit to or from the same street as the property in the commercial or industrial district form which it provides the required parking space; and (3) is separated from abutting properties in the residential district by a plant or fence buffer strip as determined by the building inspector.

403. Off-street Loading and Unloading Space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

- 403.1 Retail Business: One space of at least 12 x 25 feet for each 3,000 square feet of floor area or part thereof.
- 403.2 Wholesale and industrial: One space of at least 12 x 50 feet for each 10,000 square feet of floor area or part thereof.
- 403.3 Terminals: Sufficient space to accommodate the maximum number of buses or trucks that will be stored and loading and unloading at the terminal at any one time.

404. Vision Clearance. In all districts there shall be no plats or structures placed in or on any yard portion of a lot that would obstruct the vision of auto or pedestrian traffic using the intersecting public streets.

405. Ingress and Egress. A plan for adequate and safe ingress and egress for all land uses shall be required.

407. Planned Unit Development.

407.1 The purpose of the Planned Unit Development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environment through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The Planned Unit Development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulations, and the general well-being of the inhabitants.

407.2. Location: A PUD may be located within any residential, commercial or industrial district provided that the density and use requirements of the district in which such a PUD plan has been reviewed and recommended for approval by the Gatlinburg Regional Planning Commission.

407.3. Permitted uses in PUD's: Any use permitted in that district in which the PUD is to be located.

407.4. Height and Area Regulations: No building shall exceed three stories or thirty-five (35) feet in height except that a conditional permit may be granted by the Board of Zoning Appeals for the construction of structures exceeding the limits provided the following conditions are met:

407.4.1. Fire Hydrants are installed so that all buildings can be reached with a 250 foot hose.

407.4.2. The total number of dwelling units may not exceed the density allowed in that district.

407.4.3. For every one foot of additional height over 35 feet, the structure shall be set back one additional foot from all property and/or building lines, as specified elsewhere in these regulations.

407.5. The minimum development site for a PUD shall be at least one (1) acre.

- 407.6. No freestanding building shall be closer than twenty (20) feet to any other freestanding building and no closer than twenty-five (25) feet to the exterior property line.
- 407.7. Off-street parking regulations: Off-street parking shall be provided on a site convenient to the buildings in accordance with the following requirements:
- 407.71. Residential:
- 407.71.1. There shall be at least two (2) spaces per dwelling unit for townhouses, duplexes, and single-family dwellings.
  - 407.71.2. There shall be at least one and one-half (1-1/2) spaces per dwelling unit for apartment houses.
  - 407.71.3. There shall be at least one space for each four seats in the main auditorium of churches and other public buildings.
  - 407.71.4. Parking spaces for parks, playgrounds, and community buildings in the development may be required according to the design of the Planned Unit Development.
- 407.72. Commercial and Industrial: There shall be at least one parking space for each three hundred square feet of floor space.
- 407.8. General Provisions:
- 407.81. Relationship to the Subdivision Regulations: The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the Major Thoroughfare Plan, Gatlinburg, Tennessee, together with provisions for street improvements shall generally comply with standards set forth in the Subdivision Regulations. However, the uniqueness of each proposal for a Planned Unit Development may require that specifications for the width and surfacing of streets, public ways, public utility right-of-ways, curbs and other standards may be subject to modification for the specifications established in the Subdivision Regulations.
  - 407.82. Combination of Separate Types of Planned Unit Developments: The Gatlinburg Regional Planning Commission may consider separate types of Planned Unit Developments (such as residential and commercial Planned Unit Developments-General) within a consolidated development plan as a single administrative procedure provided the total tract is under single ownership of a landowner and

the land area insufficient to comply with the separate requirements combined.

407.83. Development Standards and Site Improvements:

407.831. All lots shall have a building area above the 100-year flood stage as delineated on the maps and profiles drawn by the Department of Housing and Urban Development or an agency or organization designated by the department.

407.832. Streets may not be at an elevation less than one (1) foot below the flood level given above.

407.84. Site Improvements:

407.841. All dedicated public streets shall be constructed so as to conform with the intent of the Gatlinburg Subdivision Regulations.

407.842. There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be four (4) feet.

407.843. Storm drainage structures shall be constructed in accordance with plans and specifications approved by the Planning Commission.

407.844. Any Planned Unit Development to be constructed within the Gatlinburg Region shall be served by a sanitary sewer. Package systems will be considered on approval by the Planning Commission.

407.845. For the prevention of noise improvement of visual character, and a generally more pleasing environment, adequate landscaping and screening shall be required by the Planning Commission and shown on the Planned Unit Development plan.

407.846. Each PUD shall be limited to one major business sign and any number of small accessory signs shall be a face sign attached to a building and shall not project above the building. All proposed signage shall be reviewed and approved by the Gatlinburg Planning Commission during the plan approval stage.

- 407.85. Building Construction: Requirements shall correspond with requirements of the City of Gatlinburg.
- 407.86. Density: Areas designated for the site of schools, churches and other public buildings shall not be used when computing allowed densities. However, the open space around these sites can be so computed.
- 407.87. Open Space Requirements:
- 407.871. Residential: On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should, therefore, be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.
- 407.872. Commercial and Industrial:
- 407.872.1. Commercial and Industrial Planned Unit Developments shall meet all open space requirements as established by this ordinance.
- 407.872.2. All open space shall be landscaped and all such landscaping shall be shown in the Planned Unit Development Plan.
- 407.873. Open space shall be established in the appropriate legal manner and maintained in one of the following methods.
- 407.873.1. By the developer or management authority of the PUD;
- 407.873.2. By a Homeowner's Association established by deed restrictions.
- 407.873.3. By the public if dedication of such open space is approved by the Planning Commission.
- 407.88. Staging
- 407.881. The applicant may elect to develop the site in successive stages in a manner indicated in the Planned Unit Development plan; however, each such stage shall be substantially complete within itself.

407.882. The Planning Commission requires that development be done in stages if public facilities are not adequate to service the entire development initially.

407.89. Changes and Modifications

407.891. Major changes: Major changes in the Planned Unit Development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 407.9.

407.892. Minor changes: Minor changes in Planned Unit Development plans may be approved by the Planning Commission provided such changes:

407.892.1. Do not increase the densities;

407.892.2. Do not change the outside (exterior) boundaries;

407.892.3. Do not change any use;

407.892.4. Do not materially change the location or amount of land devoted to specific land uses;

407.892.5. Do not significantly change the exterior appearance from that shown on any plans previously submitted or presented by the developers.

407.893. Minor changes may include, but are not limited to: Minor shifting of location of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the plan.

407.9 Application Procedure for Planned Unit Developments: To obtain a Special Conditions Permit to develop a Planned Unit Development, the developer shall submit a preliminary Planned Unit Development plan to the Gatlinburg Regional Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one inch equals one hundred feet or shall:

407.91. Define the location, size, accessibility, and existing zoning of the proposed site;

407.92. Indicate the surrounding type of development and land use;

- 407.93. Set forth the type of development proposed, the density, and the location of all structures, parking areas, and open space;
- 407.94. Show a plan for streets, thoroughfares, public utilities, schools, and other public or community uses;
- 407.95. In addition to the above, the Planning Commission may require such other additional information as may be determined necessary to adequately review the proposed development.
- 407.96. No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property contained within the area encompassed by the final PUD plan which is to be subdivided. The building official shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with.
- 407.97. The final PUD plan shall conform to the preliminary PUD plan and shall include the following items, if applicable: such items, and in such format, as may be required according to procedures adopted and published by the Gatlinburg Regional Planning Commission.
- 407.98. Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not adhered to or is not being adhered to; provided however, that for good cause shown said special conditions permit may be extended for additional periods not to exceed one (1) year.

408. Signs

- 408.1. Purpose - It is the purpose of this section to establish reasonable and impartial regulations for the location of signs within the zoning districts of the region so as to achieve a more desirable environment through flexible standards which will assure adequate light, air, and open spaces and a "reduction in congestion and hazardous conditions within the region. Therefore, all signs erected, replaced, reconstructed, expanded, or relocated on any property within the region shall conform to the following:
- 408.2. General Provisions:
  - 408.21. No part of any sign shall be placed within the right-of-way of any public street.
  - 408.22. No part of any sign shall be placed in any ingress or egress way.

- 408.23. No sign, except small entrance and exit signs and signs allowed under 408.313., from the ground level to the announcement section is less than nine (9) feet.
- 408.24. Applicants shall provide the building official plans and specifications identifying the location, type, and design of proposed signs.
- 408.25. The building official shall inspect, at any time he deems necessary, each sign regulated by this section to insure that such sign conforms to this section and all other ordinances of the region.
- 408.26. Limitation of signs per business to a maximum of two (2) signs, but not two (2) signs of the same type.
- 408.27. No flashing or intermittent lighted sign shall be allowed.

408.3. Location: Signs shall be located subject to the following requirements:

408.31 Residential Districts - Signs permitted shall be limited to the following:

408.321 Maximum size of signs, except for shopping centers, shall be determined by the type of street abutting the premises on which the sign shall be located as follows:

Maximum Sign Size

<u>Type of Street</u>	<u>Wall Sign</u>	<u>Ground Sign</u>	<u>Projecting Sign</u>
2 lanes	40 percent	50 sq. ft.	25 square feet
4 lanes	40 percent	50 sq. ft.	40 square feet

408.33. Shopping Centers. A sign designating a shopping center shall have a maximum size of one hundred fifty (150) square feet.

408.34. Maximum Height of Signs. All signs shall have a maximum height of thirty (30) feet; however, the building inspector may allow the maximum height to be extended to thirty-five (35) feet, provided there is an unusual circumstance involving topography or congestion.

408.35. Permitted only on the issuance of a temporary permit.

408.351. The permit shall not exceed thirty (30) days and shall not be renewable for a minimum of fifteen (15) days.

- 408.352. The building inspector shall secure a cash deposit of fifty (50) dollars prior to the issuance of a permit to insure the removal of the sign on the expiration of the permit.
- 408.353. The building official shall notify each delinquent permit holder, in writing, that the sign permit has expired and the sign should be removed immediately and upon failure to remove the delinquent sign, the inspector shall cause it to be removed and the deposit forfeited.

409. CUSTOMARY HOME OCCUPATION. A customary home occupation is a gainful occupation or profession conducted by a person residing on the premises.

- 409.1 Customary home occupations include: professional offices, craftmaking and related activities, teaching of music, beauty and/or barber shop, children's day care of § less than six (6) persons, photography, art studio, insurance agency, and other similar activities.
- 409.2 Renting of tourist rooms in the principal dwelling shall be considered a home occupation, provided, that no more than five (5) tourist rooms are used and that one (1) off-street parking space is provided for each tourist room.

## ARTICLE V. APPLICATION OF REGULATIONS

501. Use. Except as herein provided, no building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

502. Street Frontage. No dwelling shall be erected on a lot which does not abut on at least one street for at least forty (40) feet except that condominiums and townhouses may be excluded from this provision with the approval of the Board of Zoning Appeals.

503. Corner Lots. The minimum width of a side yard along an intersecting street shall be fifty (50) percent greater than the minimum side yard requirements of the district in which the lot is located.

504. One Principal Building on a Lot. Only one principal building and its customary accessory buildings may hereafter be erected on any lot; except that condominiums and townhouses may be excluded from this provision with the approval of the Board of Zoning Appeals.

505. Reduction of Lot Size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this ordinance shall not be maintained.

506. Yard and Other Spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

507. Conformity to Subdivision Regulations. No building permit shall be issued for or no building shall be erected on any lot within the region unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unaccepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Gatlinburg Regional Planning Commission and such approval entered in writing on the plat by the secretary of the commission.

508. Height and Density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

ARTICLE VI. ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the Gatlinburg Planning Region is hereby divided into six (6) classes of districts as follows:

Rural Residence District	RR-1
Suburban Residence District	RR-2
Commercial District	CL-1
Landscape Buffer District	LB-1
Limited Commercial	CL-2
Crafts Commercial	CL-3
Planned Golf Resort Development District	RC-6

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Gatlinburg, Tennessee Planning Region" dated December 9, 1981, and all amendments thereof, which is a part of this ordinance and which is on file in the office of the city building office in the Gatlinburg, Tennessee Municipal Building. Unless otherwise specifically indicated on the map, the boundaries of the districts are lot lines or the center lines of streets or alleys or such lines extended, or the city and/or Planning Region boundary lines. Questions concerning the exact location of district boundaries shall be determined by the Board of Zoning Appeals.

ARTICLE VII. PROVISIONS GOVERNING USE DISTRICTS

701. RR-1 Residential. It is the intent of this district to establish rural residential areas where, due to remoteness, condition of soils, steep terrain, and the absence of needed urban services makes the development of higher density uses unfeasible or undesirable. Under prescribed circumstances, certain non-residential uses are allowed. The requirements of the district are designed to protect the unique characteristics of the region. In order to achieve the intent of the district, as shown on the Zoning Map of the Gatlinburg Region, the following uses are permitted:

- 701.1. Detached single family residences;
- 701.2. Agricultural and forestry uses;
- 701.3. Roadside stands for display and sale of products produced on premises;
- 701.4. Publicly owned buildings and uses; and non-publicly owned day care centers, churches, schools, hospitals, nursing homes, cemeteries, and similar type semi-public uses provided:
  - 701.41. The location of all public buildings and uses shall be approved by the Gatlinburg Regional Planning Commission;
  - 701.42. A detailed site plan is approved by the Gatlinburg Regional Planning Commission.

- 701.5. Signs as provided under Article IV of this ordinance.
- 701.6. Customary accessory buildings provided they are located in rear yards and not closer than five (5) feet from any property line.
- 701.7. Tourist Residence
- 701.8. Customary Home Occupations

702. RR-2 Residential. It is the intent of this district to establish suburban residential areas that are suitable for single and multi-family residential development. The requirements of the district are designed to protect the unique characteristics of the region. In order to achieve the intent of the district, as shown on the Zoning Map of the Gatlinburg Region, the following uses are permitted:

- 702.1. Any use permitted in the RR-1 Residential District;
- 702.2. Multi-family residences provided they are submitted as Planned Unit Developments.

703. CL-1 Commercial. It is the intent of this district to establish commercial areas to serve the needs of the region. The regulations are intended to discourage strip development and encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the district and maintain its unique characteristics, site plans shall be required for all new construction. These plans shall include: the location of all proposed structures, an off-street parking plan, an ingress and egress plan, utilities plan, landscaping plan, signage plan, and any other plans deemed pertinent. Prior to issuance of a building permit, these plans shall be reviewed and approved by the Gatlinburg Regional Planning Commission to determine if they are consistent with the comprehensive plans and program of the region. In order to achieve the intent of the district, as shown on the Zoning Map of the Gatlinburg Region, the following uses are permitted:

- 703.1. Any use permitted in residential districts;
- 703.2. Stores conducting retail or wholesale business and distributing centers;
- 703.3. Personal, business, and professional services, excluding junkyards;
- 703.4. Motels, hotels, lodges, clubs, and similar uses;
- 703.5. Craft shops including those making products that are sold on premises;
- 703.6. Signs as regulated under Article IV of this ordinance.

704. LB-1 Landscape Buffer. It is the intent of this district to establish regulations that will preserve the unique scenic quality of the major entranceway (the Gatlinburg spur) in the region and the City of Gatlinburg and the major contribution of its characteristics to the region's attractiveness to residents and visitors. The regulations of this district shall be superimposed over the basic zoning regulations of the districts covered. In order to achieve the intent of this district, as shown on the Zoning Map of the Gatlinburg Region, the following uses are permitted:

704.1. Any use permitted in the underlying district; provided, however, that no building permit shall be issued prior to the approval of a site plan by the Gatlinburg Regional Planning Commission. The plan shall contain:

704.1.1. The location of all proposed structures.

704.1.2. Topography and elevations as viewed from the Gatlinburg Spur Highway.

704.1.3. Plans for vehicular and pedestrian circulation, ingress and egress, utilities and landscaping.

704.1.4. Any other plans deemed pertinent by the Planning Commission.

705. CL-2 Limited Commercial. It is the intent of this district to establish areas for limited commercial uses which will meet required extensive pedestrian and vehicular circulation. In order to insure that the unique characteristics of the region are maintained, uses allowable in this district shall have site plans approved by the Regional Planning Commission prior to the issuance of any required permits. The site plans shall include: the proposed location of all structures, off street parking provisions, location of ingress and egress points, location and size of utilities, a landscaping plan, and any other plans claimed pertinent by the Regional Planning Commission.

705.1. Any use permitted in residential districts.

705.2. Office - not to exceed one story.

705.3. Mini-warehouses and similar uses - not to exceed one story, and not to house the storage of heavy vehicles or equipment.

706. CL-3 Crafts Commercial. It is the intent of this District to establish areas for the production and retail distribution of local arts and crafts. The requirements are designed to protect the essential characteristics of the District and provide protection for the surrounding neighborhood. In order to achieve the intent of the CL-3 (Crafts Commercial) District, as shown on the Zoning Map of the Gatlinburg Region, the following uses are permitted:

706.1. Any use permitted in residential districts subject to the area, yard and height regulations of the RR-2 Residential District.

- 706.2. Arts and crafts shops when at least 50 percent of the goods displayed are produced on the premises and prior to issuance of a building permit, a site plan showing all proposed structures, off-street parking, adequate ingress-egress, and other information deemed pertinent shall be reviewed and approved by the Gatlinburg Regional Planning Commission.
- 706.3. Small food service operations shall be allowed as an accessory use to a principal crafts commercial use provided the accessory use does not exceed 25 percent of the total floor area being used for commercial purposes, and meets the requirements of Section 706.1.

707. RC-6 Planned Golf Resort Development District. The intent of this district is to establish areas suitable for planned golf resort developments for the benefit of tourists and citizens. These provisions are designed to protect the essential rural characteristics of the district by providing alternative means of developing property that promote and encourage open space developments while providing protection to the surrounding environment and land uses. In order to achieve the intent, all developments in the RC-6 District, as shown on the Regional Zoning Map of the City of Gatlinburg, shall be developed as Planned Unit Developments in accordance with all applicable Regional Zoning Ordinances and Codes. The following principal uses are permitted in the RC-6 District:

707.1 Public and/or Private Golf Courses/Country Clubs. Public and or privately owned regulation golf courses/country clubs, and their permitted accessory uses as defined in Section 707.3, shall be permitted provided the following conditions are met:

- 707.1.1 The golf course shall be developed as a Planned Unit Development and subject to the provisions of Article IV, Section 407 of this ordinance;
- 707.1.2 The course consists of a minimum of nine (9) holes and is improved with tees, greens, fairways and hazards;
- 707.1.3 The development site on which the golf course is to be located consists of a minimum of one hundred and fifty (150) acres;
- 707.1.4 The golf course field of play shall not be lighted for night play or use;
- 707.1.5 Golf course and country club signage shall be limited to the general provisions and sizes permitted under Article IV, Section 408, of this ordinance;
- 707.1.6 Off-street parking shall be provided in accordance with Article IV, Section 402, of this ordinance.

707.1.7 An infrastructure needs assessment shall be provided by a licensed registered engineer having proven expertise in utility and road design and capacity evaluations, indicating that all existing public and/or private infrastructure capacities of roads and utilities are adequate to serve the proposed development. In the event the assessment indicates that the existing infrastructure is not adequate, a development plan for infrastructure improvements shall be provided for review and approval by any City, County, or State entity having jurisdiction.

707.1.8 All streets whether publicly or privately owned and maintained shall be constructed in accordance with Article III and IV of the Regional Subdivision Standards being the “General Requirements and Minimum Standards of Design and Development Prerequisite to Final Approval.” For all publicly dedicated streets, additional standards may be required by the County Road Superintendents Office prior to acceptance.

707.2 Planned Golf Developments. Planned golf developments consisting of a golf course/country club integrated with mixed residential density uses. Permitted residential uses shall include: single family residential, multi-family residential, condominiums, townhouses, and similar developments. These developments shall be subject to the following standards and the previous sections found in Section 707.1:

707.2.1 Planned golf developments shall be developed as a Planned Unit Development and subject to the provisions of Article IV, Section 407 of this ordinance;

707.2.2 The golf course and country club facilities shall be in compliance with all applicable provisions of Section 707;

707.2.3 All residential development areas must comply with the area, yard, and height requirements of the RR-1 Rural Residential district as established in Article VIII of this ordinance;

707.2.4 Off-street parking shall be provided in accordance with Article IV, Section 402, of this ordinance.

707.3 Permitted Accessory Uses. The following accessory uses shall be permitted to the golf course/country club principal use: a club house, practice and driving range facilities, cart storage and maintenance buildings, golf retail gift/pro-shop, and other customary country club facilities and amenities. These accessory uses shall be permitted subject to the following standards and all standards contained in Sections 707.1 – 707.2.4:

707.3.1 All permitted accessory uses, shall be located no closer than two hundred (200) feet from any exterior property line boundary or

public right-of-way; no accessory structure shall be located within 50 feet from any other structure located on the property, and no closer than 20 feet from any private street;

707.3.2 The exterior lighting for accessory uses and buildings shall be shielded to prevent any glare onto public rights-of-ways or adjacent private property. No freestanding exterior light fixture shall be permitted to exceed fifty (50) feet in height above finished grade;

707.3.3 All accessory uses shall be developed in accordance with the area, yard, and height requirements established in Article VIII, of this ordinance;

707.3.4 Signage located on the exterior of buildings shall be limited to wall signs and subject to the size and number allotments of Article IV, Section 408, of this ordinance;

707.3.5 Off-street parking areas for all accessory uses and structures shall be provided in accordance with Article IV, Section 402 of this ordinance;

707.3.6 A water supply system adequately designed, installed and maintained for fire suppression shall be required and in conformance with the adopted codes and standards of State and local authorities having jurisdiction;

707.3.7 A detailed site plan and landscaping plan shall be provided for each proposed accessory structure. The site plan shall include all existing and proposed building locations, site utilities, drainage and erosion control plan, parking areas, circulation patterns, external lighting plan, site boundary and dimensions, density of development, topographic information at no more than 5 feet intervals, existing and finished grading plans, building elevations and final landscape plan. The landscape plan shall include specific plant species, quantities, and sizes of all proposed plantings which shall be of native, indigenous species of the immediate and surrounding area;

707.4 Subordinate Commercial Uses. The following subordinate commercial uses shall be permitted: hotels, lodges, restaurants, parking areas and facilities. These accessory uses shall be permitted subject to the following standards and all standards contained in Sections 707.1 – 707.3.7:

707.4.1 No building permit shall be issued, by the Building Official of the City of Gatlinburg, for any subordinate commercial use identified

in this section, until a minimum of nine (9) holes of the regulation golf course has been completed; or that the Gatlinburg Regional Planning Commission finds, upon a formal review, that substantial progress has been made towards the completion of the course and documentation from the applicant and general contractor that the course will be completed and opened for public and/or private use within a 12 month period of said review by the Regional Planning Commission. To assess substantial progress, the following items shall be provided for review by the Regional Planning Commission:

1. A written formal request from the property owner for an extension;
2. Copies of all construction contracts containing dates and signatures;
3. Proof of final funding for project improvements and/or a letter from a lending institution stating that funding has been secured for the completion of the project;
4. A time schedule indicating the proposed starting date and anticipated completion date with both developer and contractor's signatures.

707.4.2 All subordinate commercial uses shall be developed in accordance with the area, yard, and height requirements established in Article VIII, of this ordinance;

707.5 Prohibited Uses. The following uses shall not be permitted within the RC-6 District:

707.5.1 Miniature golf courses consisting of putt-putt and par three (3) courses and other non-regulation golf courses, and any other uses not specifically permitted under this section.

ARTICLE VIII. AREA, YARD, AND HEIGHT REQUIREMENTS

Minimum Lot Size  
Square feet

Minimum Yard Requirements  
from Property Line

District	Area in Sq. Feet	Per Additional Family	Lot Width in Feet <sup>(1)</sup>	Front	Side (Each Side)	Rear	Maximum Height of Structure
RR-1	40,000		80 <sup>(1)</sup>	25 ft. <sup>(2)</sup>	15 ft.	20 ft.	35 ft.
RR-2	40,000	5,000	70 <sup>(1)</sup>	25 ft.	15 ft.	20 ft.	35 ft.
CL-1	-	-	-	30 ft.	15 ft.	25 ft.	35 ft.
CL-2	-	-	-	30 ft.	15 ft.	25 ft.	35 ft.
CL-3	-	-	-	30 ft.	15 ft.	25 ft.	35 ft.
LB-1	Requirements of underlying district						
RC-6	43,560	-	100	30 ft.	15 ft.	25 ft.	35 ft.

1) Except on a cul-de-sac.

2) May be reduced to 10 feet if fronting on a 50 ft. right-of-way, 15 feet on a 40 ft. right-of-way, and 20 feet on a 30 feet right-of-way if the natural topography is thirty (30) percent or greater, and the on-site parking and turnaround area is maintained per ordinance requirements.

## ARTICLE IX. EXCEPTIONS AND MODIFICATIONS

901. Lot of Record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning appeals for a variance from the terms of this ordinance, in accordance with Article XI. Such lot may be used as a building site, provided however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.
902. Adjoining and Vacant Lots of Record. A plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this ordinance, such groups of lots shall be considered as a single lot or several lots in one ownership shall be subjected to the requirements of this ordinance.
903. Front Yards. The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.
905. Exceptions on Height Limits. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts and aerials.

## ARTICLE X. ENFORCEMENT

1001. Enforcing Officer. The provisions of this ordinance shall be administered and enforced by the building official. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this ordinance.
1002. Building Permit Required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any structure, including accessory buildings until the building official has issued for such work a building permit including a statement that the plans, specifications and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the building official.
1003. Issuance of a Building Permit. In applying to the building official for a building permit, the applicant shall submit a dimensioned sketch or scaled plan indicating the shape, size, height, and location of all structures to be erected, altered or moved, and of any structure already on the lot. He shall also state the existing and intended use of all such structures and supply such other information as may be required by the building official for determining whether the provisions of this ordinance are being observed. If the proposed

excavation or construction as set forth in the application are in conformity with the provisions of this ordinance, the building official shall issue a building permit for such excavation or construction. If a building permit is refused, the building official shall state such refusal in writing with cause.

1004. Certificate of Occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted/ application shall be made to the building official for a Certificate of Occupancy. Within three days of such application, the building official shall make a final inspection of the property in question, and shall issue a Certificate of Occupancy if the building or structure is found to conform to the provisions of the ordinance and the statements made in the application for the building permit. If such a certificate is refused, the building official shall state such refusal in writing with cause. No land or building hereafter erected or altered in its use, shall be used until such a Certificate of Occupancy has been granted.

1005. Penalties. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such a violation shall continue shall constitute a separate offense.

1006. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted or f maintained, or any building, or structure of land is used in % violation of this ordinance, the building official or any " other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building.

#### ARTICLE XI. BOARD OF ZONING APPEALS

1101. Creation and Appointments. The Gatlinburg Regional Board of Zoning Appeals is hereby established in accordance with Section 13-7-304, Tennessee Code Annotated. The Board shall consist of five (5) members, at least three (3) of whom shall be residents of the area subject to the Regional Zoning provisions. The members shall be appointed by the Gatlinburg Board of Commissioners for a term of five years; provided, however, that with the initial additional appointments to the Board, one member shall be appointed for a term of four (4) years and another member shall be appointed for a term of five (5) years, said terms to expire in January, 1999 and January, 2000.

1102. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its

examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

1103. Appeals: How Taken. An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the building official based in the whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building official and with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The building official shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney.

1104. Powers. The Board of Zoning Appeals shall have the following powers:

1104.1. Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is error in any order requirement, permit decision, determination or refusal made by the building official or other administrative official in the carrying out or enforcement of any provision of this ordinance.

1104.2. Special Exceptions. To hear and decide special exceptions to this ordinance as set forth in Article IX.

1104.3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In addition, all adjoining property owners shall be notified, by Certified Mail/ of all variance requests and the hearing date. In the event of a setback variance request, the applicant shall show the three-dimensional physical impact of the proposed addition by utilizing flags, poles, strings, or other easily distinguishable markers on the property.

1105. Action of the Board of Zoning Appeals. In exercising the aforementioned powers, the Board of Appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building official. The concurring vote of a majority of the board shall be necessary to reverse any order requirement, decision or determination of any such administrative official, or to decide in

favor of the applicant on any matter upon which it is required to pass under this ordinance, or to authorize any variance front the terms of this ordinance.

## ARTICLE XII. AMENDMENT

1201. Procedure. The Gatlinburg City Commission may amend the regulations, boundaries, or any provision of this ordinance. Any member of the commission may introduce such amendment, or any official, board, or any other person may present a petition to the city commission requesting an amendment or amendments to this ordinance.

1202. Approval by Planning Commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of a majority of the entire membership of the city commission to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said commission shall be deemed favorable.

1203. Introduction of Amendment. Upon the introduction of an amendment of this ordinance or upon the receipt of a petition to amend this ordinance, the city commission shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the city commission on the request change. Said notice shall be published in some newspaper of general circulation in the City of Gatlinburg, Tennessee. Said hearing by the city commission shall take place not sooner than fifteen (15) days after the date of publication of such notice.

## ARTICLE XIII. LEGAL STATUS PROVISIONS

1301. Conflict with Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Gatlinburg, the most restrictive shall in all cases apply.

1302. Validity. If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

1303. Effective Date. This ordinance shall take effect and be in force from and after its passage, the public welfare demanding it.