

**Town of Montreat  
Planning and Zoning Commission  
Meeting Agenda  
November 21, 2019 – 10:30 a.m.  
Walkup Building**

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**I. Call to Order**

- Welcome
- Moment of Silence/Invocation

**II. Agenda Adoption**

**III. Minute Adoption**

- A. October 31, 2019 Meeting Minutes

**IV. Old Business**

- A. Introduction of State Statute 160D - The General Assembly has enacted significant legislation affecting planning and development regulations in North Carolina, requiring updates to all local government development regulations by January 1, 2021. *NOTE: Discussion deferred until details of planning workshops and workbook are made available by the School of Government. A School of Government area workshop is scheduled on the topic on January 21, 2020 (Asheville) from 1:00pm-4:30pm.*

**V. New Business**

A. Zoning Ordinance Revisions

- a. Draft – Article I General Provisions
- b. Draft – Article II Definitions

B. Review and Recommendations of Ordinance Amendments

- a. Zoning Ordinance: 612.4 (3) – Reasonable Accommodation
- b. Zoning Ordinance: 628 – Approval for Construction in the Rights-of-Way
- c. Zoning Ordinance: 905 (A) – Use of Public Streets for Parking
- d. Hillside Development Ordinance: 4 (b) - Front Yard Setback Reduction

C. Discussion of Next Topics

**VI. Public Comment**

**IX. Adjournment**

**Town of Montreat  
Planning and Zoning Commission  
Meeting Minutes  
October 31, 2019 – 10:30 a.m.  
Walkup Building**

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Board members present: Bill Scheu  
Bill Roberts  
Dan Dean  
Allen Crawford  
Wade Burns  
David Holcomb (arrived at 10:46 a.m.)

Board members absent: Mason Blake  
Sally Stansill

Town staff present: Adrienne Isenhower, Zoning Administrator  
Angie Murphy, Town Clerk  
Alex Carmichael, Town Administrator  
Stuart Bass, Regional Planner, Land-of-Sky Regional Council

Two members of the public were present. Mr. Scheu called the meeting to order at 10:34 a.m., and led the group in a moment of silence.

**Agenda Approval**

Mr. Burns moved to adopt the agenda as presented. Mr. Crawford seconded and the motion carried 5/0.

**Meeting Minutes Adoption**

Mr. Scheu and Mr. Dean made a few changes to the October 10<sup>th</sup> meeting minutes. Mr. Dean moved to approve the minutes as amended. Mr. Roberts seconded and the motion carried 5/0.

**Old Business**

A. Review of Zoning Ordinance – General Provisions: Mr. Bass stated that he and Mrs. Isenhower have incorporated the changes to date into the ordinance but he would like to suggest a new table of contents and a little bit of reorganization of the ordinance itself. Mr. Bass wants to add a few definitions as well.

Mr. Bass stated that the changes coming down from the state level have been in front of the General Assembly since 2015. A number of different parties have been on this path to reframe and modernize this legislature. The General Assembly combined the legislation for planning and

zoning. The new General Statute is 160d. Every local government in the state has to make changes by next year. The School of Government is coming out with a publication with a checklist as well as a series of workshops.

Mr. Scheu was charged with the task of rewriting the ordinance provisions dealing with priority among covenants and restrictions and other ordinances and statutes. Mr. Scheu felt the revisions could be incorporated into the generic 1400 sections. Mr. Dean moved to approve these changes. Mr. Crawford seconded and the motion carried 6/0.

Mr. Scheu mentioned that in the agenda packet there was a copy of a letter from Mr. Bill Hollins. Mr. Hollins feels that Planning & Zoning should amend the notice requirement by requiring the Town to send a copy with the notice to every adjoining landowner. Mr. Scheu feels that more notice could be delivered but he does not want to create a burden for the Town. Mr. Bass suggested that Town Staff post meeting packets on the Town website and indicate in the letter sent to neighbors where to find additional information. Mr. Scheu also discussed expanding the notification to neighbors up to 500 feet with more descriptive language of the project. Mr. Burns felt that 200 feet was satisfactory. Mr. Richard DuBose of MRA suggested a possible collaboration between the Town and MRA to sustain out-of-town addresses. Mr. Gill Campbell of 149 Maryland Place thinks certified mail should be a requirement for notification purposes. Mr. Scheu suggested the internal procedures needed to be more thorough. Mr. Dean moved to accept these changes. Mr. Burns seconded and the motion carried 6/0.

### **New Business**

- A. Discussion of Next Topics: Mrs. Isenhower suggested meeting on the next regularly scheduled (3<sup>rd</sup> Thursday) meeting date and every other 1<sup>st</sup> Thursday after that. The next meeting will tentatively be scheduled for November 21<sup>st</sup>.

### **Adjournment**

Mr. Dean moved to adjourn the meeting. Mr. Crawford seconded and the motion carried 6/0. The meeting was adjourned at 11:08 a.m.

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Bill Scheu, Chair

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Angie Murphy, Town Clerk



**Montreat Zoning Ordinances**  
**Appendix A: Recommended Species for Landscaping**

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**ARTICLE I – ~~AUTHORITY AND ENACTMENT~~ GENERAL PROVISIONS**

Pursuant to the authority conferred by the North Carolina General Statutes §§~~160D A-381~~ through ~~160A-394~~, the Town Board of Town Commissioners of the Town of Montreat, North Carolina, does hereby ordain and enact into law the following articles and sections.

**1--1 Authority and Enactment**

An ordinance establishing comprehensive zoning regulations for the Town of Montreat, a municipal corporation of the state of North Carolina, and providing for the administration, enforcement and amendment thereof, in accordance with the provisions of the North Carolina General Statutes, Chapter 160A, and for the repeal of all ordinances in conflict herewith.

Therefore, be it and the same is hereby enacted by the people of the Town of Montreat, North Carolina to be effective upon adoption.

**1--2 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the Town of Montreat and within the adjacent Extraterritorial Planning Jurisdiction (ETJ).

**1-- 3 Purpose**

This Ordinance shall be enacted for the purposes of promoting the health, safety, morals and general welfare of the inhabitants of the Town of Montreat, North Carolina; facilitating the adequate provision of transportation, sewerage, water, schools, parks, and other public improvements; regulating the location and uses of Buildings,

Structures and land for trade, industry, residence or other purposes; regulating the height and number of stories of Buildings, and the size of yards and open spaces surrounding Buildings; regulating the density of population; and dividing the Town into Districts of such number, shape and area as may be best suited to carry out the purposes.

Furthermore, the purpose of these regulations shall be to accomplish a coordinated, balanced, and harmonious development of the land within the corporate limits of the Town of Montreat and the regulatory domain of the Extraterritorial Jurisdiction (ETJ), in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, steep slopes, and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of

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transportation, water, sewerage, schools, parks and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and to protect property against blight and depreciation.

**1--4 Title**

This Ordinance shall be known and may be cited as The Zoning Ordinance of the Town of Montreat, North Carolina.

**1--5 Amendment Effective Date**

The revisions of this Ordinance, including the Zoning Map, shall become effective -----, 2020.

**1--6 Priority and Precedence of Ordinance.** The provisions of these Zoning Ordinances shall have the following priority and precedence:

- (a) If provisions of the Zoning Ordinances are inconsistent with one another, or with provisions of other Ordinances of the Town, the more restrictive provision shall govern.
- (b) If a federal or state law or regulation imposes a lesser limitation or requirement, this Ordinance shall govern. If a federal or state law or regulation imposes a more restrictive or greater limitation or requirement, the provisions of such federal or state law or regulation shall govern.
- (c) If limitations or restrictions are imposed by third party agreement or declaration of restrictions or covenants, the provisions of the Zoning Ordinances shall nevertheless apply, but nothing herein shall affect the applicability or enforceability of such third party agreement or declaration of restrictions or covenants as between the parties affected thereby.

**1--7 Relationship to the Comprehensive Plan**

It is the intention of the Town Board of Commissioners that this ordinance implement the planning policies adopted by the Council as reflected in the Comprehensive Plan and other planning documents. While the Town Board of Commissioners reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, and Town Board of Commissioners hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

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When acting on any proposed zoning amendment, the Town of Montreat shall carefully consider the adopted plans and policies, and in accord with the State Law the town, including the Planning and Zoning Commission when such zoning requests are heard and the Town Board of Commissioners when such requests are acted upon shall note in written statements from each Board whether such amendment is consistent with these plans.

**1--8 No Use of Land of Buildings Except in Conformity with Ordinance Provisions**

(A) Subject to Article ---- of this ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, or sale of land or buildings under his control except in accordance with all the applicable provisions of this ordinance.

(B) For purposed of this section, the "use" or "occupation" of building or land relates to anything and everything that is done to, on, or in the building or land.

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

(D) In all districts every main building hereafter erected or altered shall be located on a separate lot, as defined in this ordinance, and in no case shall there be more than one main building and permitted accessory buildings on the lot; provided that this requirement shall not apply to multi-family developments, planned unit developments (PUDS), or certain special uses, nor to a bona fide rural farm use.

(E) Uses of Right. Uses not designated as permitted by right or subject to additional conditions, shall be prohibited. ~~Conditional~~ **Special** uses are permitted upon compliance with the additional regulations imposed as may be specified by this Ordinance or the appropriate governing board.

**1--9 Fees**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town budget or as

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established by resolution of the Town Board of Commissioners and available from the Town Clerk. Fees established in accordance with subsection ----- shall be paid upon submission of a signed application or notice of appeal.

**1--10 Severability**

It is hereby declared to be the intention of the Town Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court or competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

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**ARTICLE II - PURPOSE**

This Ordinance shall be enacted for the purposes of promoting the health, safety, morals and general welfare of the inhabitants of the Town of Montreat, North Carolina; facilitating the adequate provision of transportation, sewerage, water, schools, parks, and other public improvements; regulating the location and uses of Buildings,

Structures and land for trade, industry, residence or other purposes; regulating the height and number of stories of Buildings, and the size of yards and open spaces surrounding Buildings; regulating the density of population; and dividing the Town into Districts of such number, shape and area as may be best suited to carry out the purposes.

Uses of Right. Uses not designated as permitted by right or subject to additional conditions, shall be prohibited. Conditional uses are permitted upon compliance with the additional regulations imposed as may be specified by this Ordinance or the appropriate governing board. **MOVED to Article I.**

~~Minimum Regulations. Regulations set forth in this Ordinance shall be minimum regulations. If the Zoning District requirements set forth in this Section are at variance with the requirements of any other lawfully adopted rules, regulations or Ordinances, the more restrictive or higher standard shall govern.~~

~~Conflict with Other Laws. Whenever the regulations of this Ordinance require a greater width or size of yards, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other ordinance or statute, the requirements of this Ordinance shall govern. Whenever the provisions of any other ordinance or statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern. Where this Ordinance imposes a greater restriction on the use of land or Buildings than other rules, ordinances, or regulations, the provisions of this Ordinance shall be construed to amend or repeal any other existing ordinance in the Town of Montreat. **Now Redundant.**~~

***NOTE: Moved From General Provisions Section.***

**ARTICLE III – DEFINITIONS**

500 Interpretation of Certain Words or Terms. Except as specifically defined herein, all words used in this Ordinance have their customary dictionary definitions. For the purposes of this Ordinance, certain words or terms used herein are defined as follows:

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

500.2 The word "shall" is always mandatory;

500.3 The word "may" is permissive;

500.4 The word "lot" includes the word "plot" or "parcel";

500.5 The word "person" includes a firm, association, organization, partnership, trust company, limited liability company, or corporation as well as an individual;

500.6 The word "used" or "occupies" as applied to any land or Building shall be construed to imply that said land or Building is actually "arranged" or "designed" to be used or occupied;

500.7 The word "map" or "zoning map" shall mean the Official Zoning Map of the Town of Montreat, North Carolina;

500.8 The term "Planning Commission" refers to the Montreat Planning and Zoning Commission. The terms "Town Commissioners" "Town Board of Commissioners" or "Mayor and Town Commissioners" refer to the legally constituted and elected governing body of the Town of Montreat. The term "Board of Adjustment" refers to the Zoning Board of Adjustment for the Town of Montreat.

**500.9 Rounding of Numbers** All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, except that in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

501 Definitions.

Accessibility Feature: A separate structure or attached building appurtenance, or any combination thereof, which provides an increased level of accessibility for building occupants or members of the public constituting an improved accessible path of travel from the parking/passenger loading area to a building entrance. Accessibility features may include, but are not limited to: tramways, ramps, stairs and stairway landings, chair lifts, stair lifts and elevators.

Accessory Building or Use: A building or use that: 1) is clearly incidental to and customarily found in connection with a principal building or use; 2) is subordinate to and serves a principal building or a principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants in the principal building or principal use served; and 5) is located on the same lot as the principal building or use served.

Alley: A service roadway which provides secondary access to the side or rear of abutting property and not intended for general traffic circulation.

Antenna: Any device installed for more than three days which is primarily intended to receive or to transmit airway communication signals.

Antenna Dimensions: The length, width, or depth of an antenna, not including any part of its support Structure.

Bed and Breakfast, Home: A private owner-occupied residence with one to four guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast use is subordinate and incidental to the main residential use of the building. The homeowner shall reside on site and employment shall not exceed one full-time employee in addition to the owner.

Bed and Breakfast, Inn: A private owner-occupied residence with five to twelve guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the Bed and Breakfast Inn is operated primarily as a business. The homeowner shall reside on site and employment shall not exceed the equivalent of three full-time employees in addition to the owner.

Boarding House: A dwelling unit of part thereof where, for compensation, lodging and meals are provided.

Buffer: An area of natural or planted vegetation, typically established to separate types of use or to provide a protected area for environmental quality; such as landscaping, storm water runoff, or stream maintenance.

Buildable Area: That portion of any lot which may be used or built upon in accordance with the regulations governing the Zoning District within which the lot is located when the front, side, and rear yard requirements for the Zoning District have been subtracted from the total area. The required front, side and rear yards shall be measured inward toward the center of said lot from all points along the respective property lines. Buildable area shall be computed by measuring the allotted distances, perpendicular from each property line (See Section 614 for irregularly shaped lots). One exception exists for this requirement as follows: Where a lot line is the center of the street and a utility easement is provided along the street, the setback shall be measured from the side of the utility easement closest to the center of the lot.

Building: **Check new State definition.** Any Structure, fully or partially enclosed, and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, trailers, mobile homes, and similar Structures whether stationary or movable. Appurtenant features, or exterior structural elements requiring permanent attachment to a Building, are considered part of the Building for the purposes of this Section unless otherwise expressly permitted. **Decks, whether free-standing or attached, are required to comply with the setback provisions for buildings.**

Building Height: The vertical distance measured from average natural grade encompassing the living areas of a structure to the highest point of its roofline, or from the top of the parapet or roof surface for flat-roofed structures. **Carports, garages, decks and other non-inhabited additions to structures that may increase the building footprint are not included in calculation of average natural grade.**

Cemetery: A parcel or land used for interment of the dead in the ground or in mausoleum.

Certificate of Zoning Compliance: A certification that plans and premises conform to the provisions of the Zoning Ordinance.

Clinic: An establishment where medical, mental or dental patients, who are not lodged overnight, are given examinations and treatment.

Columbarium: A Structure containing niches for the deposit of urns containing cremains or an ash garden for the scattering of cremains.

Special Conditional Use: A specific use which may be permitted in a Zoning District by the Board of Adjustment subject to the Board's findings that the use would not adversely affect adjacent property or the health, safety or general welfare of persons in the area adjacent to the use. Such use may be permitted only in a Zoning District where said use is specifically listed as a conditional use. **This will become Special Use.**

Special Conditional Use Permit: **This will become Special Use.** A permit issued by the Zoning Board of Adjustment for a use which is permitted in a Zoning District, subject to review and approval by the Board of Adjustment. **The Conditional Use Permit shall be issued only when the specific conditions and review procedures set forth in this ordinance are met to maintain and protect the health, safety and general welfare of persons residing in the area, and to insure the compatibility of the use with adjacent properties and within the entire community of Montreat.**

Community Facilities: Facilities designed to serve the community such as libraries, and community centers, provided that such facilities are not operated for profit.

~~Customary Home Occupation: Any occupation conducted in a dwelling unit or accessory Building provided that:~~ **Any use conducted entirely within a dwelling or an accessory building and carried on by the occupants thereof, which use is**

incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Specific regulations concerning home occupations are delineated in Section -----.

- 1) No person other than members of the family residing on the premises shall be engaged in such occupation;
- 2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than fifty percent (50%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- 3) There shall be no change in the outside appearance of the Building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding a four (4) square foot area, non-illuminated, and mounted flat against the wall of the principal Building;
- 4) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. **Move these standards.**

**Day Care Center:** A child day care facility includes child care centers, family child care homes, and any other child care arrangement for three or more pre-school aged children as defined in NCGS 110-86(3); Also a center providing day care on a regular basis for more than two hours per day for more than five adults.

**Dedication:** The appropriation of land or an easement therein by the owner for use by the public as evidenced by the recording of a legal instrument (title transfer, deed restriction, etc.). The area is usually a strip of land, a street right-of-way or utilities easement, within which there is to be or may be located streets, sidewalks, utility systems and drainage Structures or a lot intended to be used for a public purpose such as a park, playground, or other public facility.

**Density:** The number of dwelling units per acre of land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this Ordinance are expressed in dwelling units per acre of land devoted to residential use exclusive of land utilized for streets, alleys, parks, playgrounds, school grounds, or other public uses.

**Diameter Breast Height (DBH):** The diameter of the trunk of a tree four and one-half feet above average grade.

**District:** Any section of the Town of Montreat in which zoning regulations are uniform.

Dormitory: A Building used as group living quarters for a student body or religious order as an accessory use for a college, boarding school, monastery or other similar institutional use. Dormitories may contain common, shared kitchen facilities and bathrooms but shall not contain individual kitchen facilities and private bathrooms.

Dwelling: Any Building, or portion thereof, which is designed for living and/or sleeping purposes for one or more families.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons including permanent facilities for living, sleeping, eating, cooking, and sanitation.

Dwelling, Single-Family: A detached dwelling unit, other than a ~~mobile~~ **manufactured** home, designed for or occupied exclusively by one family, **except for Vacation/Conference Rentals as allowed in Chapter H, Article II of the General Ordinances of the Town of Montreat.**

- 1) Dwelling, Two-Family: A detached Building including two individual dwelling units.
- 2) Dwelling, Multi-Family: A dwelling intended or used for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public or another person or entity for a particular purpose or purposes. Examples include access easements, drainage easements or utility easements.

Educational Facility: An Educational Facility includes, but is not limited to the following: Buildings and equipment used primarily for the education of children and/or adults, instructional research, conferences, administrative purposes, and supporting service operations. An Educational Facility includes classroom Buildings, laboratories, lecture halls, libraries, administration Buildings, conference centers, gymnasiums, field houses, dormitories, counseling centers, **and Buildings for the storage of transportation and maintenance equipment, office machines and furniture.**

Family: One or more persons occupying a single Dwelling Unit, provided that unless all members are related by blood, adoption, marriage or legal **guardianship, no such family shall contain over four (4) unrelated people.**

Family Care Home: ~~A home that provides room and board, and personal care and rehabilitation services to people with special needs for no more than six (6) residents. Persons with special needs are those with physical, emotional, or mental disabilities or are elderly. No Family Care Home shall be located closer than one mile from any other Family Care Home. A~~ **home meeting the North Carolina Residential Building Code with support and supervisory**

personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21.

Farm, Bona Fide: ~~A tract of land generally composed of one (1) acre or more, usually with a house, barn, and other accessory Buildings, on which crops and/or livestock are raised for livelihood. A farm may consist of land or water devoted to the raising of livestock or crops.~~ Agricultural activities as set forth in G.S.160D-9-3.

Fence: A physical barrier or enclosure intended to prevent escape or intrusion or to mark a boundary, interposed between two portions of land.

- 1) Fence, Closed: A fence in which the opening through which clear vision is possible from one side to the other on a horizontal plane comprise thirty percent (30%) or less of the total side area of the fence.
- 2) Fence, Open: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise seventy percent (70%) or more of the total side area of the fence. Difficult to discern.

Flammable Liquids: A liquid having a flash point below one hundred degrees (100°) Fahrenheit and having a vapor pressure not exceeding forty (40) pounds per square inch absolute at one-hundred degrees Fahrenheit as defined by the National Fire Codes of the National Fire Protection Association as amended.

Flood: A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the watercourse.

Floodway: That portion of the channel and flood plain of a stream designated as a minimum area to provide passage for the Regional Flood, without increasing the elevation of that flood at any point by more than one foot. For the purposes of the Ordinance, the Floodway shall be along Flat Creek and its tributaries as defined on the Official Zoning Map of the Town of Montreat, as amended.

Floodway Encroachment Lines: Lateral limits of a Floodway along streams or other bodies of water, within which, in the direction of the stream or other body of water, no Structure or fill may be added, nor flammable liquids stored, unless specifically permitted herein. The purpose is to preserve the flood carrying capacity of the Floodway. The location of the Floodway Encroachment Lines is such that the floodway between them, including the channel, will handle the Regional Flood flow without increasing the flood stage by more than one foot.

Flood Fringe Area: The land area located between the Floodway Encroachment Lines of a Floodway and maximum elevation subject to inundation by the Regional Flood as defined herein.

**Flood, Regional:** A flood which is representative of the largest floods to have occurred on a particular stream or a similar stream in the same geographical area.

**Floor Area, Gross:** The sum of the gross horizontal areas of the several floors of a Building from the exterior face of exterior walls, or from the centerline of a wall separating two Buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

**Floor Area, Net:** The total of all floor areas of a Building, excluding stairwells, elevator shafts, equipment rooms, interior vehicular parking or loading, any space where the floor-to-ceiling height is less than six feet, and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

**Front Building Line:** A line extended from side property lines which runs parallel to a street or streets and which shall be situated the same distance from said street or streets as the shortest distance between said street or streets and the primary Building on the lot. Where a lot is situated at an intersection of two streets the lot shall be considered to have two front Building lines, each as separately delineated by the definition herein.

**Garage, Private:** An accessory Building or portion of a principal Building used for the storage of private motor vehicles, in which no business, occupation, or service for profit is in any way connected. The term "garage" shall include the term "carport."

**Garage, Repair Commercial:** Any garage which is used for storage, repair, rental, maintenance, servicing, washing, adjusting, or equipping of automobiles or other vehicles. A garage exceeding 850 square feet in area or used to store more than four (4) automobiles, shall be deemed a Repair Garage.

**Greenspace:** Strips of publicly owned and maintained land, generally (but not always) following the rights-of-way of public streets, that are designated ~~used only~~ for the recreation, fishing, ~~greenspaces~~ natural areas, and beautification of the Town as defined by the "Greenspace Resolution" ~~unanimously~~ adopted by the Town Commission on July 1, 1983. **Note: Resolution should be incorporated as part of an Appendix.**

**Grocery Store (Major):** An establishment which deals principally in a variety of food and general supplies for household uses. Characteristics of this type of establishment include a Building of large physical size, a high volume of business, and a wide variety of products.

**Grocery Store (Convenience):** An establishment which deals principally in a limited selection of a variety of ~~convenience~~ common items including household goods, automobile supplies and dry goods. In addition, the Building in which such an establishment is housed is generally smaller and designed for easy access with an emphasis on serving the customer as quickly as possible.

Group Care Facility: A facility which provides services to seven (7) or more individuals of whom one or more are unrelated. These individuals are handicapped, aged, or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes uses that are licensed or supervised by any Federal, State, or County Health/Welfare Agency, or any group dwellings (all ages), halfway houses, nursing homes, resident schools, resident facilities, and foster or boarding homes, so long as they provide care for seven (7) or more individuals.

Honorarium Sign: A plaque or small sign located so as to provide recognition of a donor for contributions given toward capital projects or specific improvements to existing facilities.

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

Inn: A commercial facility for the housing and feeding of transients. *(Revised 10/12/06)*

Livestock: Animals which are generally domesticated and confined to farms. Such animals shall include cattle, sheep, goats, swine, horses, mules, fish and poultry.

Loading Space, Off-Street: Space conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles even when required off-street parking spaces are filled.

Lodge: A building or group of buildings under single management containing both rooms and dwelling units available for temporary rental to transient individuals or families.

Lot: A parcel of land occupied or capable of being occupied by a main Building or group of main Buildings and accessory Buildings, together with such yards, open spaces, lot width and lot area as are required by this Ordinance, and having not less than the minimum required lot width upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds.

- 1) Lot, Corner: A lot located at the intersection of two or more streets or located where one street makes a sharp angle of eighty to one hundred and twenty degrees (80°-120°).
- 2) Lot, Double Frontage: A lot which has two street frontages; however, no corner lot shall qualify as a double frontage lot unless said corner lot has frontage on three or more streets.
- 3) Lot Frontage: The frontage of a lot shall be construed to be the portion nearest the street.
- 4) Lot, Interior: A lot which has frontage on only one (1) street other than an alley.

### Lot Measurements:

- 1) Depth of a lot shall be considered to be the average of the distances from the front property line to the rear property line. Also see Section 614.
- 2) Width of a lot shall be considered to be the horizontal distance between side property lines measured at the projected front line of the principal Building or proposed principal Building.
- 3) All lot measurements shall be converted from slope to horizontal lines.

Lot of Record: A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Buncombe County, prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Manufactured Home: A dwelling unit, transportable in one or more sections, which is NOT constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, is eight feet or more in width and is 40 feet or more in length, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Modular Home: A dwelling unit constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings and composed of components substantially assembled in a manufacturing plant and transported to the Building site for final assembly and placement on a permanent foundation. For the purposes of this Ordinance, modular homes shall be considered equivalent to site-built homes.

Motel: An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Municipal Government Facilities: Of or pertaining to activities associated with local municipal government operations including, but not limited to: administrative offices, public meeting facilities, Designated Critical Operations Area (DCOA) facilities, emergency communications facilities, fire protection service facilities, and public safety facilities.

Natural Grade: That slope of land which has been cleared, with no major disturbance of soil.

**Nonconforming Lot(s).** A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

**Non-Conforming Structure:** A Structure which does not conform with the requirements of the Zoning District in which it is situated, either at the effective date of this Ordinance or as the result of subsequent amendments to this Ordinance.

**Non-Conforming Use:** A legal use of a Building and/or land that antedates the adoption or future amendments of this Ordinance and does not conform to the requirements for the Zoning District in which it is located.

**Nonconformity, Dimensional.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**Nursery School:** A privately owned and operated school designed to provide daytime care or instruction for two (2) or more preschool children, and operated on a regular basis. The term "nursery school" shall include the terms "day care center" and "child care center."

**Open Storage:** Unroofed storage areas, whether enclosed or not.

**Overlay District:** A Zoning District that adds requirements to the Zoning District over which it lies. Uses or proposed uses within an overlay District must comply with all requirements of both the overlay District and the underlying Zoning District. Where conflicts appear to exist between the requirements of the two Districts, the more restrictive requirement shall apply.

**Park:** A public facility for recreation, which may have commercial activities for recreational uses only.

**Parking Space:** A storage space of not less than nine feet (9') by eighteen (18') for one (1) automobile, plus the necessary access space. (See Section 900.2).

**Planned Unit Development (PUD):** An area of land under unified ownership or control to be developed and improved as a single entity under a master plan in accordance with and subject to the requirements of this Ordinance.

**Portable Storage Container:** A transportable, fully enclosed, box-like container that is designed for temporary storage of materials and/or equipment. Such containers are uniquely designed for their ease of loading to and from a transport vehicle and moved to various locations on demand. For the purposes of this Ordinance, the trailer portion of a tractor trailer shall be considered a portable storage container when expressly used for the purpose of on-site storage.

## Montreat Zoning Ordinance

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Potable Water Supply: A source of water that contains no objectionable pollution, contamination, minerals or infectious agents and is considered by the Town to be satisfactory for drinking.

Principal Building: A Building in which is conducted the principal use of the parcel on which it is situated.

Private Dormitory: A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.

Professional Office: The office of persons performing professional services such as doctors, lawyers, architects, engineers, accountants, real estate brokers, and insurance salesmen.

Property Line: The legally established boundary of a lot, which boundary shall be considered coincident with any abutting public street right-of-way line unless the metes and bounds description contained in a recorded deed for a lot clearly and specifically establishes the lot boundary at some other location.

Public Works Maintenance Facility: A building or group of buildings designated to house equipment and materials stock utilized in the various activities associated with improvements to, and maintenance of, streets and public utility systems for the Town.

Regulated Tree: A Regulated Tree shall be any self-supporting woody perennial plant located within the right-of-way lines of any private property as established by the Town of Montreat, or twenty-five (25') feet of either side of the center line of any street, whichever is more restrictive. Further, all trees on public street rights-of-way or public property owned by the Town of Montreat shall be considered to be Regulated Trees.

Removal of a Regulated Tree: The cutting down of any Regulated Tree and all other acts which cause premature death or destruction of any Regulated Tree.

Religious Complex: A Building or group of Buildings for the purpose of religious worship including the sanctuary(s), education Building(s), recreation Building(s), child care facilities, and parsonage.

Right-of-Way: A dedicated or condemned strip of land reserved for a specific use, such as for a street or utility easement.

Setback: The distance from any property line to the closest edge of a Principal or Accessory Building.

**Setback Line:** A line establishing the minimum allowable distance between the nearest portion of any Principal or Accessory Building, excluding the outermost three feet (3') of any attached steps, roof, gutters and similar fixtures, and the property line when measured perpendicular thereto. Covered porches, whether enclosed or not, shall be considered as part of the Building and shall not extend beyond the setback line. Decks, whether free-standing or not, shall not extend beyond the setback line unless otherwise permitted in accordance with Section 612.4.

**Senior Citizens' Center:** A privately or publicly owned and operated facility designed to provide daytime care and/or instruction for two (2) or more senior citizens, and operated on a regular basis.

**Sign:** Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known, including any surface fabric or other material or Structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which is exposed to public view and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit. (See Article X)

**Special Use Permit:** A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the Board of Adjustment.

**Street:** A dedicated right-of-way for vehicular traffic which affords the principal means of access to abutting property.

**Street Line:** The dividing line between a street right-of-way and the contiguous property.

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including decks, retaining walls, exterior stairways, fences, and business signs.

**Studio:** The workshop of an artist, sculptor, photographer or craftsman.

**Subdivision:** All divisions of a tract or parcel of land into two (2) or more lots, Building sites, or other divisions for the purposes of sale or Building development (whether immediate or future) including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Section:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in the Subdivision Regulations;

- 2) The division of land into parcels greater than ten (10) acres where no new street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets or other public uses; and
- 4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in the Subdivision Regulations.

Support: Any Structure that an antenna is connected to which is intended to provide structural competency. Support shall include any associated guy wires, poles, beams, foundations, anchors or other devices which attach antenna to the ground or to a Structure capable of accommodating additional engineering demands resulting from antenna and support parts.

Swimming Pool: A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing purposes.

Trailer: Any vehicle or Structure capable of moving or being moved, over street and highways on its own wheels or on flat beds or other carriers, which is designed to be utilized to:

- 1) Provide temporary quarters for the conduct of a business, profession, trade or occupation; or
- 2) Serve as a carrier of people, new or used goods, products, or equipment;

Use: The purpose or activity for which land or Buildings are designed, arranged, or intended or for which land or Buildings are occupied or maintained.

Use by Right: A use that is primary and is permitted as a matter of right on any lot within a Zoning District as expressly listed in Section 700 of this Ordinance.

Variance: An exception to the terms of the Zoning Ordinance as authorized in Section 1203 B. As used in this Ordinance, a Variance is authorized only for height, area, and size of Structure of size of yards and open spaces (See Section 1204 for Variance Application Process).

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

Wayfinding: Signs, maps, and other graphic or audible methods used to convey location and directions to travelers, normally consisting of roadside structures, informational kiosks or other visual means of providing orientation.

Yard: A space on the same lot with a principal Building which is open, unoccupied, and

unobstructed by Buildings or Structures from ground to sky except where encroachments are expressly permitted.

- 1) Minimum Front Yard: A required open space on the same lot with a principal Building, between the front setback line and the front property line and extending the full width of the lot.
- 2) Minimum Rear Yard: A required open space on the same lot with a principal Building between the rear setback line of the Building and the rear property line extending the full width of the lot.
- 3) Minimum Side Yard: A required open space on the same lot with a principal Building between the side setback line of the Building and the side property line of the lot and extending from the front property line to the rear property line.

Zoning Official Administrator: The officer or other designated authority charged with the administration and enforcement of this Ordinance.

Zoning District: The term applied to various geographical areas of the Town of Montreat for the purpose of interpreting the provisions of the Ordinance. The Zoning Districts are designated with the use of symbols on the Official Zoning Map. Regulations controlling land use in the various Zoning Districts within the Town of Montreat are set forth in Article VII of this Ordinance.

Figure 1. Yards and Setbacks **Good idea, but should be with standards.**



TOWN OF MONTREAT

P. O. Box 423
Montreat, NC 28757
Tel: (828)669-8002 Fax: (828)669-3810
www.townofmontreat.org

Zoning Ordinance Revision Request Application

Applications for Zoning Ordinance revisions must be complete, accompanied by an application fee as set forth by the Town of Montreat Fee Schedule and submitted to the Zoning Official. The application fee should be made payable to the Town of Montreat and is non-refundable except where an application is withdrawn prior to its initial consideration by the Planning & Zoning Commission. The Commission will deliberate and prepare a report for Town Council recommending to either accept or reject the proposed amendment. You will be notified of the meeting date that the Board of Commissioners will hear this matter and of any action taken or any decision made concerning your request.

All meetings of the Planning and Zoning Commission and Board of Commissioners are open to the public.

Applicant Name: Town of Montreat Date of Request: 11/19/2019
Mailing Address: PO Box 423
City: Montreat State: NC ZIP: 28757
Daytime Phone: 828-669-8002 E-mail: zoning@townofmontreat.org
Zoning Ordinance Section(s) to be revised: Zoning: 612.4, 628, 905, Hillside Development: 4(b)

Proposed text in full (attach additional sheets if necessary): See attached.

Briefly state the reason(s) for this request: Staff has experienced some confusion with responsibility and necessary signatures in development approvals. By amending the ordinance with the recommended changes, staff will have more clarification on permitting procedures and the application process would be streamlined for property owners/applicants.

List any attached supporting documents: See attached recommended changes.

Applicant Signature

Date

FOR OFFICE USE ONLY

Date Received: 11/19/2019 Application Fee: N/A Date Paid: N/A
Date Item to be Considered by Board of Commissioners: December 12, 2019

**Recommended Amendments to Zoning and Hillside Development Ordinances  
P&Z Commission – November 21, 2019**

**Zoning**

**612.4 Reasonable Accommodation.** In addition to meeting the general requirements of Section 612.1, a property owner may request approval to erect or install accessibility features within the required yard setback, subject to meeting all the following conditions:

- 3) Accessibility improvements designed and sited to occupy a portion of street right-of-way fronting the property served are also subject to review for Administrative Approval by the ~~Zoning Official and~~ Town Administrator prior to application for the associated construction permits

**628 Approval for Construction in Rights-of-Way.** Town rights-of-way are reserved for public purposes such as streets, street shoulders, utility lines, alleys, future street improvements, bikeways, walkways, driveway connections, drainage, and plantings for beautification. Any and all construction in public rights-of-way is prohibited without the prior written permission of the ~~Zoning Official and the~~ Town Administrator. At the discretion of the Zoning Official and the Town Administrator, private construction projects that produce a public benefit may be allowed in public rights-of-way (for example: a retaining wall that keeps a drainage ditch clear.) No private improvements on public rights-of-way shall be allowed which will interfere with existing or future public benefits of public rights-of-way.

**905 Use of Public Streets for Parking.** When determining parking area requirements for individual uses, portions of public streets may not be considered as permissible for parking unless part of an overall parking plan developed to accommodate new construction, alterations to, or changes in use of, existing buildings.

- A. Parallel parking is currently permitted only along select streets in the Institutional (I) or Institutional/Residential (I/R) Districts, as delineated on the official zoning map, due to historic use of these locations for parking. Requests for approval of newly-created parallel or diagonal parking spaces in the I and I/R Districts of Town shall be reviewed for approval on a case-by-case basis by the Town Administrator, ~~Public Works Director and~~ ~~Zoning Official.~~

**Hillside Development**

**4. Development Standards.**

- b) Front Yard Setback Reduction. Owners of previously-platted parcels with an existing grade of forty percent (40%) or greater may request up to a fifty percent (50%) reduction in the required front yard building setback for the associated Zoning District. Requests will be evaluated on a case-by-case basis, and permission must be evidenced by written approval bearing ~~the signatures of both~~ the Zoning ~~and Town~~ Administrators.