

**Town of Montreat  
Planning and Zoning Commission  
Meeting Agenda  
February 6, 2020 – 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. January 16, 2020 Meeting Minutes

**IV. Old Business**

- A. Discussion and Review: Accessory Dwelling Units.

**V. New Business**

- A. Where are we?

1. Review: Current Status of Zoning Ordinance Changes
2. Cunningham Property Example: Setbacks
3. Remaining Work
  - a. Remainder of Zoning Ordinance
  - b. Steep Slope and Stormwater Regulations
  - c. Parking Regulations
  - d. Sign Regulations

- B. Discussion: Next Meeting Dates

February 20, 2020

March 5, 2020

March 19, 2020

**VI. Public Comment**

**IX. Adjournment**

**Town of Montreat  
Planning and Zoning Commission  
Meeting Minutes  
January 16, 2020 – 10:30 a.m.  
Walkup Building**

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Board members present: Bill Scheu  
Allen Crawford  
Sally Stancil  
Mason Blake  
Wade Burns  
Dan Dean  
Bill Roberts  
David Holcomb

Board members absent: None

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

One member of the public was present. Mr. Scheu called the meeting to order at 10:31 a.m., and led the group in a moment of silence.

**Agenda Approval**

Mr. Dean moved to adopt the agenda as presented. Mr. Burns seconded and the motion carried 8/0.

**Meeting Minutes Adoption**

Mr. Dean moved to approve the minutes as amended. Ms. Stancil seconded and the motion carried 8/0.

**Old Business**

- A. Review: Conditional Zoning Ordinance (as revised): Mr. Dean made some minor wordsmithing changes to the Conditional Zoning Ordinance. Mr. Bass and Mrs. Isenhower notated these changes in the working document.
- B. Discussion: Accessory Dwelling Units: The Commission reviewed the fact that currently Accessory Dwelling Units are not allowed within the Zoning Ordinance. Accessory Buildings are allowed within the current Zoning Ordinance. There was a short discussion about defining Accessory Dwelling Units versus a duplex. Mr. Roberts stated that there would need to be some cleaning up of existing structures. Mrs. Isenhower stated that a review of definitions for

Accessory Dwelling Units, Accessory Buildings and Two-Family Dwellings will be necessary and she plans to work on these and bring them back to the next meeting. Mr. Scheu, Mr. Bass and Mrs. Isenhower will meet next week to work further on this topic of Accessory Dwelling Units and Conditional Zoning.

### **New Business**

A. 1. Review: Current Status of Zoning Ordinance Changes: This will be brought back up at the February meeting once Mr. Bass has made the changes.

2. Remaining Work:

A. Planned Unit Development – Mr. Blake mentioned that Planned Unit Development was for multiple undeveloped lots. They allow the developer a great deal of more flexibility in uses. There is a lot more freedom of design in common areas or facilities. There was some discussion of lots on Harmony and the Graham property. The PUD process is not inexpensive and will involve a lot of communication with Town Staff. There will be a PUD master plan which includes parking, open space, topographic maps, detailed plans, transportation and public services. The master plan will have to be adopted in a series of meeting by the Town Council.

The next meeting will be held on February 6th.

### **Adjournment**

Mr. Blake moved to adjourn the meeting. Mr. Dean seconded and the motion carried 8/0. The meeting was adjourned at 11:47 p.m.

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Bill Scheu, Chair

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Angie Murphy, Town Clerk



## Montreat Zoning Ordinance Revisions

Material covered to date – January 30, 2020.

This is earlier material, which the Board went over, and that will be incorporated into upcoming sections.

Earlier recommended changes, primarily from the current General Provisions sections.

## TOWN OF MONTREAT

### ZONING ORDINANCE

#### ARTICLE III - 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 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.

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.

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.

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

608 Every Lot Must Have Access to a Street. No Building, Structure or Use of land shall be established on a lot within the Town limits which does not have legal and physical vehicular access to a dedicated and accepted public Street. In the Extraterritorial Jurisdiction, no Building, Structure or Use of land for other than agricultural purposes shall be established on a lot which

Administrative Approval by the Town Administrator prior to application for the associated construction permits

- 4) The applicant must provide the minimum documentation in accordance with U.S. Department of Justice guidelines under the Fair Housing Act, which verifies the associated disability or medical condition(s) justify the need to modify provisions of the zoning ordinance.

613 **Corner Lots.** Any Structure on any corner lot shall comply with the minimum setback (front yard) requirements of the street which it faces, and shall comply with fifty percent (50%) of the minimum front yard setback requirements on any other street which the corner lot abuts. The yard opposite the designated front yard shall meet the minimum rear yard requirements and the remaining yard shall meet the minimum side yard requirements. ~~Where a Structure faces a corner formed by two (2) streets having different setback requirements, the Structure shall comply with the more restrictive requirements.~~ In case of doubt as to which street a Structure faces, or if a Structure is built so as not to face any street, the Zoning Administrator shall determine which setback, side yard and rear yard requirements apply.

615 **Special Front Yard Requirements in Developed Areas.** The front setback requirements of this Ordinance shall not apply to any lot where the average front setback of already built-upon lots located directly adjacent to, on either side of, and fronting on the same side of the street as such lot, is less than the minimum required front setback for the district in which the lot is located. In such case, the front setback for such lot may be less than the minimum required front setback but not less than the average of the existing front setbacks for the lots located on each side of the subject lot.

Should only one of the adjacent lots have an existing structure located upon it, which structure is located less than the minimum required front setback, and the other adjacent lot either (a) has no structure located upon it, or (b) has a structure upon it which is located more than the minimum required setback from the front property line, then, for averaging purposes, the minimum required front setback shall be used for such other adjacent lot.

Should there be only one buildable lot adjacent to the subject lot (for example, the subject lot is a corner lot, or adjoins a public space, etc.) and should the sole adjacent lot have an existing structure located upon it, which structure is located less than the minimum required front setback, then the minimum required front setback for the subject lot shall be the same as the existing front setback for the sole adjacent lot.

Provided, however, in no event shall the minimum required front setback be less than fifteen (15) feet.

616 **Non-Conformities.** Any use, structure, or lot which lawfully existed as of November 14, 1985, the date this section was originally adopted, which does not meet the requirements of this Ordinance, may be continued or maintained in accordance with the following provisions.

616.1 **Non-Conforming Lots – Vacant and Improved.**



#### 616.4 Non-Conforming Uses of Structures

A non-conforming use of a Structure is a use which was in existence on November 14, 1985, but which would not now be permitted by the Ordinance in the zoning district in which it is located. Such a non-conforming use of a Structure may be continued subject to the following limitations:

- 1) The non-conforming use of a Structure shall not be changed to another non-conforming use;
- 2) When a non-conforming use of a Structure has been changed to a conforming use, it may not later be used for any non-conforming use.
- 3) A non-conforming use of a Structure may be enlarged or extended only into portions of the Structure which existed at the time the use became non-conforming. No structural alterations are allowed to any Structure containing a non-conforming use except (i) where such alteration does not enlarge the Structure, or (ii) where such alteration is required by law or by an order of the Building Inspector or Fire Chief to ensure the safety of the Structure.

A non-conforming use of a Structure which is abandoned for a continuous period of one year shall not be reestablished and all subsequent uses of the Structure must be in conformance with the applicable zoning district requirements.

620 REMOVED

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. 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. ~~Any and all construction in public rights-of-way is prohibited without the prior written permission of the Zoning Official and the Town Administrator.~~

However, per the approval At the discretion of the Zoning Administrator and of the Town Administrator, individual private construction projects that produce a discernable public benefit may be allowed in public rights-of-way (for example: a retaining wall that keeps a drainage ditch clear.)

#### 701 R-1 Residential Districts.

701.1 Purpose. This Zoning District is established to protect areas in which the principal use of the land is for low density, single- and two-family dwellings as well as for the related recreational facilities normally required to provide for an orderly and attractive residential area. Any use, which, because of its characteristics, would interfere with the development of or be detrimental to the residential nature if of the area is excluded prohibited.

701.2 Permitted Uses. See Section 700.

701.3 Conditional Uses. See Section 700 and Article VIII.

- 702.2 Permitted Uses. See Section 700.
- 702.3 Conditional Uses. See Section 700 and Article VIII.
- 702.4 Minimum Lot Area.
- 702.41 Eight thousand (8,000) square feet for all Single-family Dwellings.
- 702.42 Twelve thousand (12,000) square feet for all Two-family Dwellings.
- 702.43 Multi-family Dwellings having three (3) or more units shall have a minimum of twenty thousand (20,000) square feet, plus an additional three thousand, five hundred (3,500) square feet for each dwelling unit in excess of four (4).
- 702.44 Twelve thousand (12,000) square feet for all other uses.
- 702.5 Minimum Lot Width. Sixty feet (60').
- 702.6 Minimum Lot Depth. One hundred feet (100').
- 702.7 Minimum Front Yard. Thirty feet (30').
- 702.8 Minimum Side Yard.
- 702.81 Single-family Dwellings: Ten feet (10').
- 702.82 All Other Uses: Twenty feet (20').
- 702.83 Lots abutting Woodland District: 10 feet (10')
- 702.9 Minimum Rear Yard. Twenty percent (20%) of the mean lot depth, provided that such rear yards used for dwellings need not exceed thirty feet (30').
- 702.91 Lots abutting Woodland District: 10 feet (10')
- 702.10 Maximum Building Height. Thirty-five feet (35').
- 702.11 Off-Street Parking and Loading Regulations. See Article IX.
- 702.12 Accessory Buildings. See Section 612 and 700.
- 702.13 Signs. See Article X.
- 703 R-3 Residential District.
- 703.1 Purpose. This Zoning District is established to protect areas in which the principal use of the land is for low density, single- and two-family dwellings as well as for the related recreational facilities normally required to provide for an orderly and attractive residential area. Any use, which, because of its characteristics would interfere with the development of or be detrimental to the residential nature of the area is excluded. The R-3 Residential District is similar to the R-1 District except that minimum lot sizes are increased due to the limited availability of Town services and the environmentally sensitive nature of the land within these outlying regions.
- 703.2 Permitted Uses. See Section 700.
- 703.3 Conditional Uses. See Section 700 and Article VIII.
- 703.4 Minimum Lot Area.

704.4 Minimum Lot Area.

- 704.41 Single-family Dwellings. Six thousand (6,000) square feet.
- 704.42 Two-family Dwellings. Ten thousand (10,000) square feet.
- 704.43 Multi-family Dwellings. Fifteen thousand (15,000) square feet plus three thousand (3,000) square feet for each dwelling unit in excess of two (2).
- 704.44 Ten thousand (10,000) square feet for all other uses.

704.5 Minimum Lot Width.

- 704.51 Single-family Dwellings. Sixty-five feet (65').
- 704.52 Two-family Dwellings. Eighty feet (80').
- 704.53 Multi-family Dwellings. One Hundred feet (100').
- 704.54 Other uses. One Hundred feet (100') at front Building line.

704.6 Minimum Lot Depth. One Hundred feet (100').

704.7 Minimum Front Yard. Twenty-five feet (25').

704.8 Minimum Side Yard.

- 704.81 Interior Side. Twelve feet (12').
- 704.82 Street side at corner lot. Seventeen and one-half feet (17.5').

704.9 Minimum Rear Yard. Twenty-five feet (25').

704.10 Maximum Building Height. Forty feet (40'). All proposed Buildings, other than single family, must be approved by the authority having jurisdiction for fire code enforcement. Structures over thirty five feet (35') will require special fire protection systems.

704.11 Off-Street Parking and Loading Regulations. See Article IX.

704.12 Screening Regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

- 704.121 Like or similar uses abutting each other in different Districts: None.
- 704.122 Unlike or dissimilar uses abutting each other in same or different Districts: Six foot (6') high closed fence or evergreen vegetation of sufficient density to serve the purpose of a solid fence.
- 704.13 Signs. See Article X.

705 I – Institutional.

705.1 Purpose. The Institutional Zoning District is established to permit certain institutional uses as defined in Article V, Definitions, Educational Facility.

705.2 Permitted Uses. See Section 700 and Article V, Definitions, Educational Facility.

705.3 Conditional Uses. See Section 700 and Article VIII.

705.4 Minimum Lot Area. Seven thousand five hundred (7,500) square feet.

Creek Basin which are vital to the tourism component of the town economy and which are highly valued by residents of the Town as well.

707.2 Permitted Uses. Agricultural uses and enterprises except logging and timber harvest.  
(See Section 700.)

707.3 Conditional Uses. None allowed.

708 TCO - Town Center Overlay District. That core area centered on Lake Susan which encompasses the majority of seasonal, community activity and Institutional facilities and uses as indicated on the official zoning map of the Town of Montreat. The requirements of this section shall supplement the requirements of the underlying Zoning District(s). In case of conflict between the requirements of this section and any other law or regulation the more stringent provision shall apply.

708.1 Purpose. This Zoning District is established to support and encourage specific permitted uses representative of the core Institutional and Institutional/Residential Districts of Town. The Town Center of Montreat contains many significant historical buildings and other architectural features of interest. These touchstones define the unique character and rich heritage that residents and visitors alike have come to cherish.

708.2 Permitted Uses. See Section 700.

708.3 Conditional Uses. See Section 700.

708.4 Signs. See Article X (Note Section 1005.26 specific provisions).

709 CD – Conservation District. That area along Flat Creek from the Montreat Gate to Lookout Road and delineated on the Official Zoning Map of the Town of Montreat as Conservation District.

709.1 Purpose. This Zoning District is established to protect tracts of land from residential, commercial, and institutional development and to preserve land for parks, open space, recreational areas, greenways, trails, waterways and flood plain areas.

709.2 Signs. See Article X, Section 1004.9.

[CONTINUED ON FOLLOWING PAGE]

				and when adjacent to a different Zoning District	
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\* For each unit in excess of four, an additional 3,500 sq. ft. is required per unit.

\*\* Minimum rear yard is 20% of the mean lot depth and less than or equal to 35' in R-1 and R-3, or less than or equal to 30' in R-2 for residential uses.

\*\*\* For each unit in excess of two, an additional 3,000 sq. ft. is required per unit.

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.

The proposed text amendments are consistent with the Town of Montreat Comprehensive Plan. The following reasons were considered in the deliberations of the Town of Montreat Planning and Zoning Commission: the proposed text amendment is reasonable considering the clarification provided to staff on permitting procedures and the streamlining of the application process for property owners and/or developers.

## Montreat Zoning Ordinance Revisions

Material covered to date – January 30, 2020.

This is the material that we have been over in revised sections. Please note however, that this is not a final format, and it is not presented as complete.

Pagination and formatting will have to be finalized, as well as some changes to be incorporated by the recent State legislation, commonly referred to as Chapter 160D.

What follows is:

Article I – General Provisions

Article II – Definitions

Article III – Administrative Provisions

Conditional Zoning District (New)

Planned Unit Development District (New)

# Article I – General Provisions

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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 Title**

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

**1--2 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, the same is hereby enacted by the people of the Town of Montreat, North Carolina to be effective upon adoption.

**1--3 Amendment Effective Date**

The revisions of this Ordinance, including the Zoning Map, shall become effective January 1, 2020, 2020.

**1--4 Jurisdiction**

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

**1-- 5 Purpose**

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, convenience, order, 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 facilitate the adequate provision of 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--6 Priority and Precedence of Ordinance.** The provisions of these Zoning Ordinances shall have the following priority and precedence:



(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 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 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, as the case may be.

#### **1--10 Severability**

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. 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.

## Article II – Definitions

**ARTICLE II – 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.

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.

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 -----.

**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 II, Article II of the General Ordinances of the Town of Montreat.~~

**Dwelling, Two-Family:** A detached Building including two individual dwelling units, designed for separate occupancy, separated by a common wall.

**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.

**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 **for consideration** 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 Commercial Garage.**

**Grade, Average Natural:** The elevation determined by computing the mathematical average of the elevations of the highest and lowest points on the proposed development site.

**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



- 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.

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, designed for use as a permanent residence, that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

**Manufactured Home, Class A.** A dwelling unit that:

(i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and

(ii) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and

(iii) meets or exceeds the construction standards of the US Department of Housing and Urban Development, and (iv) conforms to the following appearance criteria:

(A) the manufactured home has a minimum width, as assembled on the site, of twenty feet;

(B) the pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;

(C) a continuous, permanent curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home; and

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



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;

- 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.**

# Article III – Administrative Provisions

(Moved from 600.)

300 General. The regulations set forth in this Ordinance shall be applicable to all Zoning Districts, shall be minimum regulations, and shall apply uniformly to each class or kind of Structure or land, except as may be provided for elsewhere in this Ordinance.

301 Administration of this Ordinance. The Zoning Administrator appointed by the Town of Montreat Board of Commissioners is duly charged with the administration of the provisions of this Ordinance. All questions arising in connection with this Ordinance shall be presented first to the Zoning Official Administrator who shall be responsible for the day to day administration of this Ordinance.

302 Certificate of Zoning Compliance Required. No Building or other Structure shall be erected, moved, added to or structurally altered, nor shall any new parking spaces or parking lots be added, nor shall any Building Permit be issued nor shall any change in the use of any Building, Structure or land be made until a Certificate of Zoning Compliance shall have been issued by the Zoning Official Administrator. No certification of zoning compliance shall be issued except in conformity with the provisions of this Ordinance. Replacement of roof shingles does not require Zoning Compliance. Where a variance or Conditional Use Permit is required, the Zoning Official Administrator shall not issue a Certificate of Zoning Compliance until such variance or permit shall be approved by the Board of Adjustment. A copy of all Certificates of Zoning Compliance shall be kept in the Town office.

302.1 Applications for Zoning Compliance Certificate. All applications for zoning compliance certificates shall be accompanied by plans in duplicate and drawn to scale showing:

- 1) the actual dimensions of the lot to be built upon;
- 2) accurate dimensions and the use of the proposed Building or Structure;
- 3) the location on the lot of the Building or Structure proposed to be erected or altered, including an outline of all proposed Structures and the distances from all Structures to adjoining property lines;
- 4) the location of all underground and above ground utilities;
- 5) all utility easements, rights-of-way, culverts and drainage ways;
- 6) the parcel identification number consistent with Buncombe County tax records;
- 7) evidence that taxes on the property proposed for construction were paid prior to submitting the application;
- 8) such other information as may be necessary to provide for the enforcement of the provisions of this Ordinance, including the

- 303.3 Certificate of Occupancy Required. No new Building or part thereof shall be occupied, and no additional or enlargement of any existing Building shall be occupied, and no existing Building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing Building or part thereof, until the Building Inspector has issued a Certificate of Occupancy therefor. A temporary Certificate of Occupancy may be issued for a portion or portions of a Building which may safely be occupied prior to final completion and occupancy of the entire Building. Application for a Certificate of Occupancy may be made by the owner or his/her agent after all final inspections have been made for new Buildings, or, in the case of existing Buildings after supplying the information and data necessary to determine compliance with this chapter, the appropriate regulatory codes and the Zoning Ordinance for the occupancy intended. The Building Inspector shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the Building in all respects conforms to the provisions of this chapter, the regulatory codes, and the Zoning Ordinance for the occupancy intended.
- 303.4 Certificate of Compliance. At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection and if he or she finds that the completed work complies with all State and local laws and with the terms of the permit, he or she shall issue Certificate of Compliance. No new Building or part thereof may be occupied, and no addition or enlargement of an existing Building may be occupied, and no existing Building that has been altered or moved may be occupied until the inspection department has issued a Certificate of Compliance. A temporary Certificate of Compliance may be issued permitting occupancy for a stated period of specified portions of the Building that the inspector finds may safely be occupied prior to final completion of the entire Building. Violations of this section shall constitute a Class 1 misdemeanor. The Building Inspector shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the Building in all respects conforms to the provisions of this chapter, the regulatory codes, and the Zoning Ordinance for the occupancy intended.
- 304 Compliance. In case any Building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any Building or land is used in violation of this Ordinance, the Zoning Administrator or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceedings to prevent such violation.
- 305 Appeal from the Zoning Administrator. All questions arising in connection with this Ordinance shall be presented first to the Zoning Administrator, and such questions shall be presented to the Board of Adjustment only as an appeal from a ruling of the Zoning Administrator. Any order, requirement, decision or determination made by the Zoning

requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

308 Penalties for Violation. Any person violating any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine ~~not to exceed five hundred dollars (\$500.00)~~ as provided by N.C.G.S. § 14-4 or imprisonment as provided by N.C.G.S. § 15A-1340.23 or other applicable law and in addition thereto such violation may be enjoined and restrained as provided in N.C.G.S. § 160A-175. *Note: Confirm with new Chapter 160.D.*

308.1 Remedies and Penalties. The remedies and penalties provided for violations of this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order and can include:

A) Civil Penalty. Violations of this Ordinance shall subject the offender to a civil penalty upon the issuance of a citation for a violation. The Town may recover the civil penalty, if not paid to the Town Administrator within thirty (30) days of the date the citation was issued, in a civil action in the nature of a debt pursuant to N.C.G.S. § 160A-175. Each day that any violation of the provisions of this Code continues shall constitute a separate and distinct offense. The civil penalty shall be fifty dollars (\$50.00) for each violation unless otherwise provided in this Ordinance or set forth below: **For purposes of determining the amount of the civil penalty pursuant to this Section, the failure to pay the fifty-dollar (\$50) civil penalty shall not constitute a separate and distinct offense that subjects the offender to an additional fifty-dollar (\$50) civil penalty.**

Civil Penalty for Violations of the Zoning Ordinance of the Town of Montreat:

First violation:	Verbal Warning
Second violation:	Written Notice of Violation & \$50.00 if not corrected within 7 days
Third violation:	\$250.00
Fourth and subsequent violations:	\$500.00

Second or subsequent violations of the provisions of this Ordinance by the same person for the same activity occurring within one year of the first such violation shall be subject to the higher penalties set forth above. *Revise.*

B) Withholding of Certificate of Occupancy: The Zoning Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building constructed or being constructed on the property until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

C) Disapproval of Subsequent Permits and Development Approvals: As long as a violation of this Ordinance continues and remains uncorrected, the Zoning Administrator



- D) Emergency Enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose an immediate danger to the public health, safety, or welfare, then the Zoning Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Zoning Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this Article.

No court conviction shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

~~E) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law or in violation of [a] provision(s) of the Zoning Ordinance, or in a manner that endangers life or property, the Building Inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped in accordance with North Carolina G.S. § 160A-421.~~

~~1) The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed.~~

~~2) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his/her designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his/her designee, with a copy to the local inspector. The Commissioner of Insurance or his/her designee will promptly conduct an investigation and the appellant and the inspector will be permitted to submit relevant evidence. The Commissioner of Insurance or his/her designee will as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his/her designee on an appeal no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:~~

~~a) Appealing to the Building Code Council, or~~

~~b) Appealing to the Superior Court as provided in G.S. 143-141.~~

~~3) The owner or builder may appeal from a stop order involving alleged violation of this Zoning Ordinance by giving notice of appeal in writing to the Board of Adjustment. The appeal shall be heard and decided within the period established by Article XII. No further work shall take place in violation of a stop order pending a ruling.~~

~~4) Violation of a stop order shall constitute a Class 1 misdemeanor.~~

## ARTICLE III – Administrative Provisions

DRAFT

311 Powers and Duties of the Planning and Zoning Commission. In addition to its powers and duties under the Subdivision Ordinance, it shall be the duty of the Planning Commission:

- A. To acquire and maintain, in current form, such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in those conditions;
- B. To prepare, and from time to time, amend and revise a comprehensive plan for the physical development of the Town;
- C. To establish principles and policies for guiding action in the development of the area;
- D. To prepare and recommend to the Town Board of Commissioners Ordinances promoting orderly development along the lines indicated in the comprehensive plan;
- E. To receive, review and make recommendations upon those applications for permits for Conditional Use Permits as required by the provisions of this Ordinance;
- F. To receive and review all applications for amendment to this Zoning Ordinance and to make recommendations thereon to the Town Board of Commissioners;
- G. To keep the Town Board of Commissioners and the general public informed and advised as to these matters;
- H. To serve as the Stormwater Advisory Committee and assist the Town Board of Commissioners in meeting the mission and achieving the identified goals and objectives of the Town's Stormwater Management Program; and
- I. To perform any other duties to which it may be lawfully assigned.

### ZONING BOARD OF ADJUSTMENT

312 The Board of Adjustment shall have the authority to rule on matters of interpretation of this Ordinance, consider appeals from decisions of the Zoning ~~Official~~ Administrator, issue Conditional Use Permits, grant variances and perform other duties as defined in Article XII of this Ordinance. Any appeal from a decision of the Board of Adjustment shall be to the courts as provided by law. (Moved).

313 Establishment of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall be composed of seven members for matters within the Town of Montreat and for extra-territorial jurisdiction matters. The seven member Board of Adjustment shall be comprised of five members residing in the Town of Montreat, one member residing in Buncombe



subject of the decision and to the party who sought the decision (if different from the owner). The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

3. The owner or other party shall have thirty days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have thirty days from receipt of actual or constructive notice of the decision within which to file an appeal.
4. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed, that by reason of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Zoning Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
5. Subject to the provisions of subdivision (3) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
6. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.
7. When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
8. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution in accordance with standards and procedures established and approved by the Board.

In exercising the above powers, the Board of Adjustment may, in conformity with the provisions of G.S. 160A-388, reverse or affirm wholly or in part, or may modify the decision appealed from and shall make any order, requirements, decision or

- C. Conditional ~~Special~~ Use Permits. It shall be the duty of the Board of Adjustment to hear requests for Conditional Use Permits upon recommendation from the Planning and Zoning Commission and grant said permits in accordance with the guidelines set forth by this Ordinance (See Article VIII).
- D. Subpoenas. The Board of Adjustment may subpoena witnesses and compel the production of evidence through the chair or acting chair. To request issuance of a subpoena, persons with standing (G.S. 160A-393(d)) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoena s/he determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to the proper parties.
- 317 Application Procedure. The Board of Adjustment shall hear and decide appeals from any decision or determination made by the Zoning ~~Administrator~~ and all requests for variances.
- A. Filing Appeals and Applications. All appeals and applications for variance shall be filed with the Town Clerk, who shall refer such applications to the Board of Adjustment when all required materials have been submitted. All appeals and applications shall be made on the forms provided by the Town for that purpose. All information required on the form shall be completed and all required materials shall be submitted before an appeal or application shall be considered as having been filed. When the completed appeal or application has been filed with the Town Clerk, the Zoning ~~Administrator~~ shall immediately notify the Chair of the Board of Adjustment that such appeal or application has been filed.
- B. Required Materials. All appeals or applications for variance shall be filed together with the following materials:
1. A neatly drawn map of the property which is the subject of the appeal or application, drawn to scale and showing the location of any Building and other improvement located on the property and showing any adjoining road;
  2. If the appeal or variance concerns the elevation of a Building, a drawing showing the elevation of all Buildings and improvements located on the property which is the subject of the appeal and application;
  3. A copy of the deed for the property which is the subject of the appeal or application for a variance, a copy of the plat showing such property if one

deliver the decision to a party, three days shall be added to the time to file the petition for review.

- 320 Variance Limited to Six Months. Any variance granted by the Board of Adjustment must be acted upon within six months or it shall become null and void. The Board of Adjustment may grant one six month extension of a variance if so requested by the applicant.

## AMENDMENTS

- 321 Authority. This Ordinance, including the Official Zoning Map of Montreat, North Carolina, may be amended from time to time by the Board of Commissioners in accordance with the provisions of this Article.
- 322 Requirement for Change. When the public necessity, convenience, general welfare, or good zoning practices justify such action, and after the review and report by the Planning and Zoning Commission if required, the Board of Commissioners may undertake the necessary steps to amend the Zoning Ordinance. However, the Board of Commissioners may, in its sole discretion, make changes to the Zoning Ordinance which are necessary (1) to correct typographical errors, (2) to bring the Zoning Ordinance in compliance with any applicable North Carolina or federal law or (3) for which N.C.G.S. § 160A-387 does not require planning agency review. The Board of Commissioners can schedule such amendments for a public hearing under Section ---- without complying with Section ---- below.
- 323 Procedure for Amendments. Requests to amend the Zoning Ordinance or the Official Zoning Map shall proceed in accordance with the following requirements:
- A. Initiation of Amendments. A proposed change or amendment to the Zoning Ordinance or the Official Zoning Map may be initiated by the Board of Commissioners, the Planning and Zoning Commission, the Board of Adjustment, or one or more owners of property within the area affected by the proposed amendment. For purposes of this Article only, the term "property owner" shall include the holder of a sales contract or option to purchase property affected by the proposed change.
  - B. Application Procedure.
    - 1) Application forms for amendment requests shall be obtained from the Town Office. Completed application forms, plus any additional information that the Chair or applicant feels to be pertinent, shall be filed

- 3) No member shall be excused from voting except upon matters involving the consideration of his/her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of compensation and allowances of members of the Planning and Zoning Commission is not a matter of involving a member's own financial interest or official conduct.

324 Public Hearing by the Board of Commissioners.

- A. Amendment to the Zoning Ordinance. Before enacting an amendment to the Ordinance, the Board of Commissioners shall hold a public hearing. Public hearings shall be held during the regularly scheduled meeting of the Board of Commissioners.

- 1) At least ten (10) days notice of time and place of the hearing shall be published in a newspaper of general circulation in Montreat for two (2) consecutive weeks.
- 2) At the public hearing, the Board of Commissioners may adopt the proposed amendment, reject the proposed amendment, refer the proposed amendment back to the Planning and Zoning Commission for further consideration or hearing, or modify the proposed amendment and adopt it as modified.
- 3) In the case of a protest against a proposed amendment, signed by the owners of at least twenty percent (20%) either (1) of the area of lots affected by such proposed amendment, or (2) of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred feet (100') therefrom, or (3) of those directly opposite thereto, extending one hundred feet (100') from the street frontage of such opposite lots, then such amendment shall not become effective except by favorable vote of three-fourths of all members of the Board of Commissioners.

- B. Changes in the Official Zoning Map. Before enacting a change to the Official Zoning Map, the Board of Commissioners shall hold a public hearing. Public hearings shall be held during the regularly scheduled meeting of the Board of Commissioners.

- 1) If the proposed change to the Official Zoning Map affects fewer than fifty (50) different properties, the owners (as shown on county tax listing) of the parcel(s) of land affected by the proposed change in the zoning map and the owners (as shown on the county tax listings) of all parcels of land

- 5) Following final action by the Board of Commissioners, the Zoning Administrator shall make any necessary changes in the Zoning Map and shall maintain a written record of the type and date of such changes. Action by the Board of Commissioners shall be considered official seven (7) days after the date the change was accepted by the Board of Commissioners, even if the Zoning Administrator has failed to make the appropriate changes.
- 6) The Board of Commissioners shall not reconsider a proposed change to the Official Zoning Map if such change is for the same property or portion thereof, for a period of one (1) year from the date of final determination of the prior request. This waiting period may be waived by a three-fourths vote of the Board of Commissioners if it determines that there may have been substantial changes in conditions or circumstances which may relate to the request.

# Conditional Zoning District (New)

## -----.12 Conditional Zoning District

In addition to the general zoning districts delineated above, a Conditional Zoning District (bearing the designation CZ) corresponding to the general use zoning districts may be established as authorized in this ordinance, ~~Accordingly, the following conditional zoning districts may be designated upon approval by the Town Board of Commissioners of a petition to establish a conditional zoning district, as follows:~~

R-1: (CZ)	Low Density Residential District
R-2: (CZ)	Medium Density Residential District
R-3: (CZ)	Low Density Residential District
I/R: (CZ)	Institutional/Residential District
I: (CZ)	Institutional District

Conditional zoning districts are districts that correspond to the general use zoning districts which are otherwise applicable. In addition to imposing the standards, restrictions and regulations provided for in the corresponding general use zoning district applicable to a parcel of property, a conditional zoning district imposes additional standards, restrictions and regulations as a condition to and as part of the legislative decision creating the district in exchange for reductions in ~~the~~ otherwise applicable setback and other site specific development standards and requirements of the applicable general use district.

~~Conditional Zoning Districts (bearing the designation CZ) correspond to the general use zoning districts as authorized in this ordinance.~~

## -----.13 Purpose

Conditional Zoning Districts are primarily intended to allow for the zoning and development of property in accordance with general use zoning district standards ~~and~~ with additional ~~conditions~~ and/or modified standards that enable the use and development of the subject property in a manner which is better suited to the topography and other unique characteristics of the site and which is also consistent with the character of the use and development of the neighboring properties.

The review process established in this Ordinance provides for accommodation of such development by a reclassification of property into a conditional zoning district, subject to specific conditions ~~and standards~~, which promote and provide for the compatibility of the use and development of the subject parcel with the use and development of the



the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Board of Commissioners.

(D) Before filing an application for a conditional zoning district, the application(s) is encouraged to meet with the Zoning Administrator to discuss the nature of the proposed reclassification, the standards for development under the existing and proposed classifications, and concerns that persons residing in the vicinity of the property may have regarding the proposed reclassification, if known.

(E) All applications must include an exhibit map/schematic plan and supporting text which will become a part of the ordinance amendment, ~~The applicant should include at least~~ and the items listed below:

- (1) A site plan drawn to scale locating all proposed improvements, showing the total acreage, present zoning classifications and uses for the subject property and adjacent properties, date, and north arrow.
- (2) The owners' names, addresses, and the tax parcel numbers of all adjoining properties.
- (3) All existing easements, reservations, ~~and~~ rights-of way, and all yards required for the conditional zoning district requested.
- (4) Delineation of areas within the regulatory floodplain as shown on official Flood Hazard Boundary Maps for the Town of Montreat including delineation of streams and associated stream buffers.
- (5) Proposed uses of land and structures. For residential uses this ~~should~~ includes the number of units and an outline of area where the structure will be located and appropriate setbacks. For nonresidential uses, this ~~should~~ includes the approximate square footage of all structures and an outline of the area where the structures will be located.

(F) Additional requirements. ~~When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, The~~ Planning and Zoning Commission and/or Town Board of Commissioners may request additional information as they deem necessary. This information may include ~~but is not limited to the items listed below among other things:~~

- (1) Proposed screening, including walls, fences, or planting areas as well as treatment of any existing natural features.



mail and be postmarked at least fourteen (14) days prior to the date of the community meeting. Additional types of public notice may be provided by the applicant.

(A) A written report of the community meeting shall be included as part of the application packet. The written report of the meeting shall include a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the time, date, and location of the meeting, and a description of any changes to the rezoning application made by the applicant a result of the meeting.

(B) Revisions to an approved Conditional Zoning District necessitating a Public Hearing applicable to the Institutional/ Residential (I/R) and the Institutional (I) districts shall also require a community meeting.

#### -----17 Scope of Approval

(A) Any conditions approved in association with a Conditional Zoning District and so authorized shall be perpetually binding unless subsequently changed or amended as provided for in this Article. The applicant shall obtain certification of the approval of the Conditional Zoning District from the Town Clerk and shall record the certification and accompanying map exhibit/site plan in the office of the Register of Deeds of Buncombe County. The applicant shall return a certified copy of the recorded documents to the Town Clerk.

(B) If for any reason any condition established pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the Conditional Zoning District may be deemed null and void and the governing body may initiate proceedings to rezone the property to its previous zoning classification. Continued or repeated violations of the conditions in an approved Conditional Zoning District shall constitute an applicant's failure to accept said conditions.

(C) Any violations of a condition in an approved Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.

(D) The approval of a zoning map or text amendment does not authorize any development activity. Application for A Certificate of Zoning Compliance and any other administrative permits required by this ordinance shall be required, before the initiation of any development activity.

(E) If an application for conditional zoning is approved, thereafter the development and use of the property shall be governed by the standards,

only file a rezoning application in accordance with these provisions. ~~with a public hearing and Town Board of Commissioners decision.~~

DRAFT

# Planned Unit Development District (New)

**PROPOSED NEW PLANNED UNIT DEVELOPMENT DISTRICT (PUD)****ARTICLE --****00.0 PUD                      Planned Unit Development District****A.        PUD Planned Unit Development District**

This district allows projects of innovative design and layout that may not otherwise be permitted under this ordinance because of the strict application of zoning district regulations and/or general development standards. Variations from otherwise applicable regulations and standards may be granted with the adoption of the required Planned Unit Development District Master Plan (PUD Master Plan).

In return for greater flexibility, Planned Unit Developments are expected to deliver exceptional design, character and quality that preserve critical environmental resources and provide open space amenities. Such development shall incorporate creative design in the layout of buildings, open space, and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.

**B.        The PUD district encourages innovative land planning and design concepts by:**

- (1) Providing flexibility in the application of zoning and development standards or regulations that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
- (3) Allowing greater freedom for a broad mix of various land uses in the same development;
- (4) Promoting quality design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses;
- (5) Encouraging quality design by allowing higher densities when such increases are supported by superior standards or the provision of additional amenities; and
- (6) Protecting health, safety and general welfare without unduly inhibiting the development of property.

**C.        A Planned Unit Development shall be a new zoning district that replaces the existing zoning district. The development standards and land uses in the approved PUD Master Plan are the zoning regulations, standards, and land uses for a PUD in**

Plan). The PUD and the PUD Master Plan shall be treated as a single item when acted on by the Town Board of Commissioners. The PUD Master Plan shall include the following:

- a. a map, including parcel numbers, showing the parcels proposed for the PUD;
- b. a topographic map(s), for the property included in the proposed PUD;
- c. a list of permitted uses proposed in the PUD;
- d. the locations of the proposed uses;
- e. a summary of the amount, quantity, or gross density of those uses proposed in the PUD;
- f. a map(s) showing the locations of water bodies appearing on USGS or NRCS Soil Survey maps within or adjacent to the boundary of the proposed PUD;
- g. a map(s) showing the locations of wetlands, stream buffers, the 100 year floodplain, and slopes greater than 30%;
- h. a utility plan that includes the type and general location of the proposed public utilities;
- i. a plan addressing stormwater within the proposed PUD;
- j. proposed land development standards/regulations for the PUD,

(2) The PUD Master Plan may include the following, as appropriate:

- a. a public service plan for the PUD that evaluates potential impacts on: police service, fire service, schools;
- b. a multi-modal transportation plan for the PUD that includes the location of existing and proposed major roads in and adjacent to the PUD. To the extent practicable, the on-site transportation system shall be integrated with the off-site transportation system shown on any adopted adjacent Comprehensive Transportation Plan.
- c. a plan for an on-site transportation systems that addresses vehicular, bicycle, transit and pedestrian circulation;
- d. A traffic impact analysis (TIA) may be required for the approval of a PUD.
- e. the location of known historic structures or sites within the PUD;
- f. a recreation and open space plan(s) that includes the locations and standards for open space and recreation areas within the PUD;
- g. a boundary buffer plan showing transition treatments between the proposed PUD and adjacent properties;
- h. a plan for development phasing within the PUD.

Landscaping shall comply with the standards of Article ---- of this ordinance, except that variations from or modifications to these standards may be permitted in accordance with the PUD Master Plan or when a site plan or subdivision plan is presented for approval. The proposed landscaping should ensure compatibility with land uses on surrounding properties, create attractive streetscapes and parking areas, and be consistent with the urban design objectives and/or character of the PUD.

(2) Boundary Transitions

The PUD Master Plan shall include a plan(s) for the transition between those land uses proposed within the PUD and those land uses adjacent to the outer boundary of the PUD. These may include buffers, specific compatible land uses, and/or other transitions. These boundary transitions may be varied over their length and/or width.

H. Interpreting the PUD Master Plan

The Town Administrator, or Town Administrator's designee is authorized, when necessary, to interpret the development standards and/or plans contained in the PUD Master Plan. In such cases, the interpretation should be applied in a way that most closely meets the original intent of the PUD Master Plan.

I. Amendments to the PUD and PUD Master Plan

The Planned Unit Development District (PUD) and the Planned Development District Master Plan (PUD Master Plan) may be amended by the approval of a request to the Town Council. Amendments shall be established through the process for rezoning property pursuant to the procedures for amendments as set forth in Article -- of this ordinance.



ANE

Water

Tip

N36°02'03"W

N69°49'46"E

113.48'

5/8" Epa Rebar

Water Meters

30' Rear Setback

30'

22.2'

8.8'

37.3'

12.0'

34.5'

Single - Story Frame House

4.0'

Proposed New Porch and Steps

16.0'

8.0'

16.0'

28.8'

34.4'

Porch

8.0'

40.2'

20.5'

Chain Link Fence to be Removed

S251°29'E

10' Side Setback

10'

10' Side Setback

10'

AREA = 0.386 ACRE  
(BY COORD. COMP.)



