

**Town of Montreat  
Planning and Zoning Commission  
Meeting Agenda  
June 30, 2020 – 10:30 a.m.  
Walkup Building and Zoom Attendance**

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**I. Call to Order**

- Welcome
- Moment of Silence/Invocation

**II. Agenda Adoption**

**III. Minute Adoption**

- A. June 9, 2020 Meeting Minutes
- B. June 16, 2020 Meeting Minutes - Pending

**IV. Old Business**

- A. Ordinance Review Sections
  - 1. Review of Complete Ordinance Restated

**V. New Business**

- A. Fences – Discussion
- B. Landscaping Requirements

**VI. Future Business**

- A. Hillside Development and Stormwater Regulations {No's 11 and 13 in red book}

**VI. Public Comment**

**VII. Discussion: Next Meeting Dates**

- A. July .....

**VIII. Adjournment**

**Town of Montreat  
Planning & Zoning Commission  
Meeting Minutes  
June 9, 2020 – 10:30 p.m.  
Walkup Building & Zoom**

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

Board members absent: Sally Stansill

Town staff present: Angie Murphy, Town Clerk  
Adrienne Isenhower, Zoning Administrator  
Stuart Bass (via Zoom)

No members of the public were present but two members were watching via Zoom. Mr. Scheu called the meeting to order at 10:35 a.m., and led the group in a moment of silence.

**Agenda Approval**

Mason Blake moved to adopt the agenda as presented. Dan Dean seconded and the motion carried 7/0.

**Meeting Minutes Adoption**

The May 26, 2020 minutes were not ready for adoption and will be presented to the Commission at the next scheduled meeting.

**Old Business**

A. Ordinance Review Sections:

1. Preliminary Finalization of Definitions: After a series of capitalization and grammatical changes the definitions were preliminarily finalized with a motion by Allen Crawford and a second by Dan Dean. The motion carried 7/0.
2. Preliminary Finalization of Signage: There was a brief discussion about the legality of flying Confederate flags in Montreat and Mrs. Isenhower and Mr. Bass advised that a flag is not a “Sign” and that is the 1<sup>st</sup> Amendment right of the owners to fly the Confederate

flags. The Commission plans to recommend to the Town Council that flags could be an ongoing issue and may need to be addressed. The definition of sign was changed to include the word “existing” before governmental unit.

Montreat College has expressed interest in putting up light pole banners on their campus. Mason Blake and Bill Scheu would like to add verbiage to the ordinance to give them authority to use the signs. Mr. Scheu will get in touch with the College prior to next week’s meeting to see exactly what kind of signage they are interested in affixing to light poles.

3. Parking Regulations-Discussion/Review: Mason Blake and Bill Scheu met with Richard DuBose and Sara Baughman last week to discuss parking as it relates to the Conference Center, the College and the Town. Most everyone at the meeting had not seen the revisions that Mr. Scheu provided at the end of the prior week. Mr. Scheu asked everyone to review and send comments to him via email.

#### **Public Comment**

Martha Campbell of 149 Maryland Place briefly reviewed the purpose of the Wayfinding Signage Plan. Mrs. Campbell expressed her concerns that the P&Z Commission’s assignment does not include the “Wayfinding” aspect of the former project. She mentioned Pedestrian Kiosk’s and their purposes. She thinks it’s important for individuals arriving in Montreat for business, school, conferences and tourism to be able to find their way.

#### **Adjournment**

Wade Burns moved to adjourn the meeting. Mason Blake seconded and the meeting was adjourned at 12:53 p.m.

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Bill Scheu, Chair

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Angie Murphy, Town Clerk



~~ZONING ORDINANCE~~

~~TOWN OF MONTREAT~~

~~NORTH CAROLINA~~

~~Prepared by~~ **ZONING ORDINANCE**

**TOWN OF MONTREAT**

**NORTH CAROLINA**

Prepared by the Planning and Zoning Commission

**Adopted October 14, 1999 by the Board of Commissioners**

**Revised:** \_\_\_\_\_

|                    |                    |
|--------------------|--------------------|
| March 8, 2001      | June 14, 2001      |
| September 13, 2001 | November 14, 2002  |
| December 2, 2002   | July 10, 2003      |
| January 8, 2004    | June 10, 2004      |
| December 9, 2004   | March 10, 2005     |
| May 12, 2005       | September 8, 2005  |
| April 6, 2006      | July 13, 2006      |
| May 10, 2007       | March 13, 2008     |
| August 14, 2008    | September 10, 2009 |
| October 8, 2009    | November 30, 2009  |
| January 14, 2010   | October 14, 2010   |
| October 11, 2012   | January 10, 2013   |
| September 12, 2013 | May 8, 2014        |
| June 12, 2014      | February 11, 2016  |

**Prepared with Assistance from the**  
**Land-of-Sky Regional Council**

Article I – General Provisions

- 1.1 Title
- 1.2 Authority and Enactment
- 1.3 Effective Date
- 1.4 Jurisdiction
- 1.5 Purpose
- 1.6 Priority and Precedence of Ordinance
- 1.7 Relationship to the Comprehensive Plan
- 1.8 No Use of Land or Buildings Except in Conformity
- 1.9 Fees
- 1.10 Severability

Article II – Definitions

- 2.1 Interpretation
- 2.2 Definitions

Article III – Administrative Provisions

- 3.1 Administration
- 3.2 Certificate of Zoning Compliance Required
- 3.3 Building and Occupancy Permits Required
- 3.4 Compliance
- 3.5 Appeal from the Zoning Administrator

- 3.6 Notice of Violations and Citation Procedures
- 3.7 Responsibility for Violations
- 3.8 Penalties for Violations
- 3.9 Establishment of the Planning and Zoning Commission
  
- 3.11 Powers and Duties of the Planning and Zoning Commission
- 3.12 Zoning Board of Adjustment
- 3.13 Establishment of the Zoning Board of Adjustment
- 3.14, 1999 Proceedings of the Zoning Board of Adjustment
- 3.15 Appeal from the Decision of the Zoning Administrator
- 3.16 Powers and Duties of the Zoning Board of Adjustment
- 3.17 Application Procedures
- 3.18 Decision of the Zoning Board of Adjustment
- 3.19 Appeals from Decisions of the Zoning Board of Adjustment
- 3.20 Variance Limited to Six Months
- 3.21 Amendments – Authority
- 3.22 Requirement for Change
- 3.23 Procedure for Amendments
- 3.24 Public Hearing by the Board of Commissioners

**Revised:**

#### Article IV – Establishment of Zoning Districts

- 4.1 Establishment of Districts
- 4.2 District Boundaries
- 4.3 Rules for Interpretation of Zoning District Boundaries

#### Article V – Zoning District Regulations

- 5.1 Permitted Uses Table
  - 5.2 R-1 Residential District
  - 5.3 R-2 Residential District
  - 5.4 R-3 Residential District
  - 5.5 I/R Institutional/Residential District
  - 5.6 I Institutional
  - 5.7 WL Woodland District
  - 5.8 RPO Ridge Protection Overlay District
  - 5.9 TCO Town of Montreal Center Overlay District
  - 5.10 C Conservation District
  - 5.11 CZ Conditional Zoning Ordinance District
- Revised: June 12, 2014**



5.13 PUD Planned Unit Development District

Article VI – Development Provisions

- 6.1 Use
  - 6.2 Lot Reduction Prohibited
  - 6.3 Street Access for a Lot
  - 6.4 Minimum Lot Area
  - 6.5 Height and Density
  - 6.6 One Principal Building
  - 6.7 Accessory Buildings and Uses
  - 6.8 Corner Lots
  - 6.9 Double Frontage Lots
  - 6.10 Special Front Yard Requirements
  - 6.11 Manufactured Housing
  - 6.12 Travel Trailers, Campers, and Recreational Vehicles
  - 6.13 Accessory Dwelling Units
- Article VII - Special Uses

Article VIII - Parking and Loading Requirements

Article IX - Signage

Article X - Landscaping

Article XI – Nonconformities

Appendix A – Recommended Species for Landscaping

Appendix B – Greenspace Agreement

**ARTICLE I – ~~TITLE~~ GENERAL PROVISIONS**

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

101 Title

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

102 Authority and Enactment

An ordinance establishing comprehensive zoning regulations for the Town of Montreat, a municipal corporation of the state of North Carolina, and (a) providing for the administration, enforcement and amendment thereof, in accordance with the provisions of the North Carolina General Statutes, Chapter 160D, and (b) 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.

103 Amendment Effective Date

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

104 Jurisdiction

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

105 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.

106 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.

107 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 Board 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, the 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.

When acting on any proposed zoning amendment, the Town of Montreat shall carefully consider its adopted plans and policies. In accordance 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.

108 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 or occupy any land or buildings, or authorize or permit the use of land or buildings, except in accordance with all the applicable provisions of this ordinance.

(B) For purposes 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 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.

compliance with the additional regulations imposed as may be specified by this Ordinance or the appropriate governing board.

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#### 109 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 the Town's fee schedule and shall be paid upon submission of a signed application or notice of appeal, as the case may be.

#### 110 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.

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.

## ARTICLE ~~VII~~ – DEFINITIONS

*~~(Revised 3/08/2001); (Revised 10/12/2006); (Revised 5/10/2007)~~  
~~(Revised 3/13/2008); (Revised 10/08/2009); (Revised 9/12/2013)~~*

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201 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:

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~~500~~200.1 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;

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~~500~~200.2 The word "shall" is always mandatory;

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~~500~~200.3 The word "may" is permissive;

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~~500~~200.4 The word "~~lot~~Lot" includes the word "plot" or "parcel";

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~~500200.5~~ The word "person" includes a firm, association, organization, partnership, company, limited liability company, or corporation as well as an individual;

~~500200.6~~ The word "used" or "occupies" as applied to any land or Building shall be to imply that said land or Building is actually "arranged" or "designed" to be used or occupied;

~~500200.7~~ The word "map" or "zoning map" shall mean the Official Zoning Map of of Montreat, North Carolina;

~~500200.8~~ The term "Planning Commission" refers to the Montreat Planning and 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.

#### ~~501202~~ Definitions.

Accessibility Feature: ~~AAn improved accessible walkway and/or path of travel from the parking/passenger loading area of a Building to the Building entrance, in the form of a separate structure~~Structure or attached ~~building~~Building appurtenance; or any combination thereof, which increased level of accessibility for ~~building~~Building occupants or members of the public ~~features~~Features may include, but are not limited to: tramways, ramps, stairs and stairway lifts, stair lifts and elevators.

Accessory Building or Use: A ~~building~~Building or ~~use~~Use that: 1) is clearly incidental to and found in connection with a ~~principal building~~Principal Building or ~~use~~Use; 2) is subordinate to and Building or a principal ~~use~~Use; 3) is subordinate in area, extent, or purpose to the ~~principal~~ or principal ~~use~~Use served; 4) contributes to the comfort, convenience, or necessity of occupants the ~~principal building~~Principal Building or principal ~~use~~Use served; and 5) is located on the same Building or ~~use~~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~~Antenna, not including its support Structure.

Antenna 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.~~

Bed and Breakfast, Home: ~~A private – An owner-occupied residence with one o four guest be considered a Single-Family Dwelling, in which overnight accommodations and a morning public and where the bed and in which a breakfast use is subordinate and incidental to the main~~

**Boarding House:** A ~~dwelling unit~~Dwelling Unit of part thereof where, for compensation, meals are provided.

**Buffer:** An area of natural or planted vegetation, typically established to separate types of use or to provide a protected or vegetative area for environmental or aesthetic purposes.

**Buildable Area:** That portion of any ~~lot~~Lot which may be used or built upon in accordance the regulations governing the Zoning District within which the ~~lot~~Lot is located when the front, and rear ~~yard~~Yard requirements for the Zoning District have been subtracted from the total area.

**Building:** Any Structure, fully or partially enclosed, and ~~isolated by exterior walls~~ constructed business, industry or other public or private purposes, or ~~purposes~~ accessory thereto, ~~and~~ including ~~without limitation~~ tents, ~~trailers~~Trailers, mobile homes, and similar Structures whether stationary 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. ~~Appurtenant features, or exterior structural elements requiring permanent~~

**Building Height:** The vertical distance measured from ~~the~~ average ~~natural grade~~Natural encompassing the living areas of a ~~structure~~Structure to the highest point of its roofline, or from the parapet or roof surface for flat-roofed ~~structures~~. ~~Carports, garages, decks and other non-~~

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

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

**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.

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

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

**Deck:** An elevated structural platform, which may be constructed of any materials, either free standing or attached to a Building, connected by structural supports at grade.

**Dedication:** The ~~appropriation~~voluntary donation of land or an ~~easement therein~~Easement a parcel of land by the owner thereof 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~~ of ~~way~~Way or utilities easement, within which there is to be or may be located ~~streets~~Streets, utility systems and drainage Structures or a ~~lot~~Lot intended to be used for a public purpose such ~~park~~Park, playground, or other public facility.



Density: The number of ~~dwelling units~~Dwelling Units per acre of land developed or used for purposes. Unless otherwise clearly stated, ~~density~~Density requirements in this Ordinance are in ~~dwelling units~~Dwelling Units per acre of land devoted to residential ~~use~~Use; exclusive of land Alleys, Parks, playgrounds, school grounds, or other public ~~uses~~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.

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

Dwelling: Any Building, or portion thereof, ~~which is designed for living and/or~~containing facilities, ~~and which is designed and/or used for living, and sleeping, eating, cooking, and Families.~~

Dwelling Unit: A Dwelling designed and used, or held ready for use, as a permanent, separate residence for one (1) Family only.

Dwelling Unit, Accessory (ADU): A residential Dwelling Unit located on the same Lot as a Single-Family;~~A detached dwelling Dwelling Unit, either as a separate Structure, an attached extension, or located within the principal Dwelling Unit; and is set up as a separate, complete housekeeping unit, other than a mobile home, designed for or occupied exclusively by one family, permitted in Chapter H, accordance with and subject to Article II of the General Ordinances of the~~

~~containing three (3) or more families living independently of each~~separate Dwelling Units.

Dwelling, Single-Family: A single, detached Building, other,~~with the number of families in containing one (1) Dwelling Unit.~~

Dwelling, Two-Family (Duplex): A single, detached Building, other than a Manufactured Home, containing two (2) separate Dwelling units.

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.

Family: One or more persons ~~occupying~~living together as a single ~~Dwelling~~ provided, ~~however,~~ that unless all ~~members~~such persons are related by blood, adoption, marriage guardianship, ~~no or other~~ such legal family relationship, ~~then such housekeeping unit shall contain more than four (4) unrelated people~~persons, unless specifically allowed by other provisions of this ordinance.

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Family Care Home: A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, ~~and~~ personal care and a family environment for six ~~(6)~~ residents. ~~Persons with special needs are those with physical,~~

Farm: 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.

Fence: A physical barrier or enclosure intended to prevent escape or intrusion or to mark a boundary.

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.~~

Floor Area, Net: The ~~total of all floor areas~~ Gross Floor Area of a Building, ~~less and such Building, attributable to~~ stairwells, elevator shafts, equipment rooms, interior vehicular parking or loading, ~~any space where the floor-to-ceiling height is less than six feet~~ areas, and all are used or intended to be used for human habitation or service to the public.

Front Building Line: A line extended from side ~~property lines~~ Property Lines which runs parallel ~~streets~~ Streets and which shall be situated the same distance from said ~~street~~ Street or ~~streets~~ Streets distance between said ~~street~~ Street or ~~streets~~ Streets and the primary Building on the ~~lot~~ Lot. Where at an intersection of two ~~streets~~ Streets the ~~lot~~ Lot shall be considered to have two ~~front~~ Front as separately delineated by the definition herein.

Garage, Private: An ~~accessory~~ Accessory Building or portion of a principal Building used for 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, maintenance, servicing, washing, adjusting, or equipping of automobiles or other vehicles. ~~A~~

Greenspace: Strips of publicly owned and maintained land, generally (but not always) following the ~~rights~~ Rights-of-way of public ~~streets~~ Streets, that are ~~used only~~ designated for ~~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 incorporated into the ordinance as an Appendix item.

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

Grocery Store (Convenience): ~~————— An A retail~~ establishment which deals principally in of ~~a variety of convenience~~common items including ~~without limitation food,~~ household goods, ~~beverages,~~ and ~~drypackaged~~ goods. In addition, the Building in which such an establishment is is generally smaller and typically designed for easy vehicular 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~~ 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 ~~dwelling~~Dwellings (all ages), houses, nursing homes, resident schools, resident facilities, and foster or boarding homes, so long as they provide care for seven (7) or more individuals.

Home Occupation: Any Use conducted entirely within a Dwelling or an Accessory Building and carried on by the occupants thereof (and their secretarial or administrative assistants, if any), 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 ~~-----~~.

Honorarium Sign: A plaque or small ~~sign~~Sign located so as to provide recognition of a donor 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.~~

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~~Parking Spaces are filled.

Lodge: ~~————— A building or group of buildings under single management containing both rooms~~ main Buildings and ~~accessory~~Accessory Buildings, together with such ~~yards~~Yards, open spaces, ~~lot~~Lot area as are required by this Ordinance, and having not less than the minimum required width upon a ~~street~~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~~Lot located at the intersection of two or more ~~streets~~Streets or where one ~~street~~Street makes a sharp angle of eighty to one hundred and twenty (80°-120°).
- 2) Lot, Double Frontage: A ~~lot~~Lot which has two ~~street~~Street frontages; ~~corner lot~~Corner Lot shall qualify as a double frontage ~~lot~~Lot unless said ~~corner~~ frontage on three or more ~~streets~~Streets.

- 3) Lot Frontage: The ~~frontage of a lot shall be construed to be the portion nearest not an Alley).~~
- 4) Lot, Interior: A ~~lot~~Lot which has ~~frontage on~~ only one (1) ~~street other than an~~

Lot Measurements:

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

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

Manufactured Home: ~~\_\_\_\_\_ A dwelling unit, transportable in~~ Dwelling Unit, is composed of one or more sections, components, each of which was substantially 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~~not constructed in accordance with the ~~standards~~requirements of the North Residential Building Code ~~for One-as amended, and Two-Family Dwellings,~~

(ii) is ~~eight feet~~composed of two or more components, each of which was substantially 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 and is 40 feet or more in length, and, as 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 built on a permanent asphalt or without fiberglass shingles;

(C) a continuous, permanent foundation when connected to the curtain wall, unpierced access, is installed under the Manufactured Home; and

(D) the tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the Lot and before occupancy.

**Manufactured Home, Class B.** A manufactured home constructed after July 1, 1996 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a Class A Manufactured Home but meets the following standards:

(A) skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the Manufactured Home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and

(B) stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary Structure and anchored securely to the ground.

**Manufactured Home, Class C.** Any Manufactured Home that does not meet the definitional criteria of a Class A or Class B Manufactured Home. Manufactured homes that do not meet the definitional criteria of Class A, B, or C Manufactured Homes are classified as recreational vehicles.

**Modular Home:** A ~~dwelling unit~~Dwelling Unit constructed in accordance with the 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~~Modular Homes shall be considered equivalent to site-built

~~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.~~

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~~The existing slope of land which has been~~has been~~may be cleared, but with no major of soil, prior to grading, excavation or filling.

~~Non-Conforming Structure: A Structure which does not conform with the Natural Grade.~~  
(Average): The average of the natural grade elevations at the four points on a Lot at which the front and rear yard setback lines intersect with the two side yard setback lines.

**Nonconforming Lot:** A Lot of Record that does not conform to the dimensional requirements of the Zoning District in which it is ~~situated, either at the effective date of~~located. The nonconformity may result from adoption of this Ordinance or as the result of any subsequent

Non-Conforming Use: ~~\_\_\_\_\_ A legal use of a Building and/or land that antedates the adoption~~  
District in which it is located. The nonconformity may result from adoption of this Ordinance or  
any subsequent amendment.

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~~Uses within an ~~overlay~~Overlay District must comply with all  
both the ~~overlay~~Overlay District and the underlying Zoning District. Where conflicts appear to  
between the requirements of ~~the two Districts~~an Overlay District and its underlying Zoning  
restrictive ~~requirement~~requirements shall apply.

Park: A public facility for recreation, which may have commercial activities for  
recreational ~~uses~~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~~Trailer portion of a tractor trailer shall be considered  
~~portable storage container~~Portable Storage Container when expressly used for the purpose of on-

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~~safe  
~~consumption~~drinking.

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

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~~Lot, which boundary shall be  
considered coincident with any abutting public ~~street right~~Street Right-of-~~way~~Way line unless the  
bounds description contained in a recorded deed for a ~~lot~~Lot clearly and specifically establishes  
~~lot~~Lot boundary at some other location.

Public Works Maintenance Facility: A ~~building~~Building or group of ~~buildings~~Buildings

equipment and materials ~~stock~~ utilized in the various activities associated with improvements to, and maintenance of, ~~streets~~Streets and public utility systems for the Town.

**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~~Street or utility easement.

**Setback:** The distance from any ~~property line~~Property Line to the closest edge of a Principal Building.

**Setback Line:** A line establishing the minimum allowable distance between ~~an applicable Property Line (that is, front, side or rear Property Line) and~~ the nearest portion of any Principal or Accessory Building, excluding the outermost ~~three~~four feet (~~3'~~4') of any attached steps, roof, gutters and fixtures, and the ~~property line~~Property Line when measured perpendicular thereto. Covered 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~~Setback Line 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 ~~unrelated~~ 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:** 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 Special Use.

**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 and any additional requirements imposed by the Board of Adjustment.

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

**Street Line:** The dividing line between a ~~street right~~Street Right-of-way~~Way~~ and the contiguous

**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~~Decks, retaining walls, exterior stairways, ~~fences~~Fences, and business ~~signs~~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:~~

**Trailer:** Any vehicle or Structure capable of moving or being moved, over ~~streets~~streets 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 B. As used in this Ordinance, a Variance is authorized only for height, area, and size of Structure of yardsYards, and open spaces—(See, as provided in Section 1204 for Variance Application~~

**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~~Structures, informational kiosks visual means of providing orientation.

**Yard:** A space on the same ~~lot~~Lot with a ~~principal~~Principal Building which is open, unoccupied, 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~~Lot with a ~~principal~~Principal Building between the front ~~setback line~~Setback Line and the extending the full width of the ~~lot~~Lot.
- 2) **Minimum Rear Yard:** A required open space on the same ~~lot~~Lot with a ~~principal~~Principal Building between the rear ~~setback line of the Building~~Setback extending the full width of the ~~lot~~Lot.
- 3) **Minimum Side Yard:** A required open space on the same ~~lot~~Lot with a ~~principal~~Principal Building between the side ~~setback line of the Building~~Setback ~~lot~~Lot and extending from the front ~~property line~~Property Line to the rear ~~property~~



Zoning Official: ~~Administrator:~~ The officer or other designated authority charged 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

#### **ARTICLE VI-GENERAL III – ADMINISTRATIVE PROVISIONS**

*(Revised 3/08/2001); (Revised 6/14/2001); (Revised 9/13/2001); (Revised 11/14/2002)*

301 Administration of this Ordinance. 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. 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 Administrator who shall be responsible for the day to day administration of this Ordinance.

~~601 Administration of this Ordinance. All questions arising in connection with this Ordinance shall be presented first to the Zoning Official who shall be responsible for the day to day administration of this Ordinance. 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, 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. The duties of the Montreat Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in Article XII of this Ordinance. The duties of the Board of Commissioners in connection with this Ordinance shall be the duty of considering passing and adopting the initial Ordinance and any proposed amendments to or repeal of this Ordinance as provided by law. The Town Planning and Zoning Commission shall serve in an advisory~~

~~capacity to the Board of Commissioners and shall provide recommendations to the Board~~  
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 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 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.

~~602302.1~~                    Applications for Zoning Compliance Certificate.      All  
compliance certificates shall be accompanied by ~~plans in duplicate and drawn to~~  
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 architectural or Building plans of the Structure proposed to be erected or altered; and

~~9) — Deed~~

Prior to issuance of a Certificate of Zoning Compliance, the Zoning may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

~~602302.2~~                    Zoning Compliance Certificate Fee.      All applications for a  
Zoning Compliance shall be accompanied by an application fee based upon the number of principal Structures per application. The fee shall set forth in the Town of Montreat Fee Schedule.

~~602302.3~~                    Certificate of Zoning Compliance Limited to Six Months Plus One  
If within six (6) months of the date on which a Certificate of Zoning Compliance is issued, construction has not begun on the structure for which the certificate had been issued, the certificate shall expire; but the Zoning ~~Official~~Administrator shall

one (1) extension of six (6) months to the certificate if so requested by the applicant. Such request shall be granted without any requirement of any additional fee.

~~602302.4~~ Prior Approval Required for Plan Changes. Any changes proposal in the Town, for which a Certificate of Zoning Compliance has been issued, voids the Certificate of Zoning Compliance for the proposal. A new application consistent with Section 602.1 shall be submitted to the Town Zoning ~~Official Administrator~~ describing the project including all proposed changes. No construction shall take place that is inconsistent with the approved plans until amended plans are fully approved by the Zoning ~~Official Administrator~~.

~~602302.5~~ Re-submission of Application for Zoning Compliance. An denied by the Zoning ~~Official Administrator~~ but not appealed to the Board of may be re-submitted not more than once, unless there is a material change in the application or a change in the zoning ordinances related to the application.

### 603303 Building and Occupancy Permits Required.

~~603303.1~~ Building Permit Required. Upon receiving a Certificate of Zoning the property owner shall obtain a Building Permit from the Town of Montreat Building Inspector for the construction or structural alteration of any Building or Structure. A permit fee, as set by the Town Commissioners shall be paid to the Town.

~~603303.2~~ Building Permit Expiration. A Building ~~permit~~Permit from the date it was issued if the work authorized by the Building Permit has not been commenced. In addition, a Building Permit shall immediately expire if the work authorized by the Building Permit has been commenced but has been discontinued for a period of twelve (12) months.

~~603303.3~~ Certificate of Occupancy Required. No new Building or part 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.

~~603303.4~~ Certificate of Compliance. At the conclusion of all work done under a the appropriate inspector shall make a final inspection and if he or she finds that

**Montreat Zoning Ordinances  
Article VI: General Provisions**

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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.

**TOWN OF MONTREAT**

**ZONING ORDINANCE** Include an illustration with standards.

**ARTICLE VI - GENERAL III - ADMINISTRATIVE PROVISIONS**

*(Revised 3/08/2001); (Revised 6/14/2001); (Revised 9/13/2001); (Revised 11/14/2002)  
(Revised 7/10/2003); (Revised 1/08/2004); (Revised 6/10/2004); (Revised 12/9/2004)  
(Revised 5/12/2005); (Revised 5/10/2007); (Revised 3/13/2008); (Revised 8/14/2008)  
(Revised 9/10/2009); (Revised 10/14/2010); (Revised 10/11/2012); (Revised  
(9/12/2013); (Revised 02/11/2015)*

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**600 — General**

301 Administration of this Ordinance. 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. 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 Administrator who shall be responsible for the day to day administration of this Ordinance.

~~601 Administration of this Ordinance.~~ All questions arising in connection with this 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 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 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.

~~602302.1~~ Applications for Zoning Compliance Certificate. All compliance certificates shall be accompanied by ~~plans in duplicate and drawn to~~ 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 architectural or Building plans of the Structure proposed to be erected or altered; and

~~9) Deed~~

Prior to issuance of a Certificate of Zoning Compliance, the Zoning may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

~~602302.2~~ Zoning Compliance Certificate Fee. All applications for a Zoning Compliance shall be accompanied by an application fee based upon the number of principal Structures per application. The fee shall set forth in the Town of Montreat Fee Schedule.

~~602302.3~~ Certificate of Zoning Compliance Limited to Six Months Plus One  
If within six (6) months of the date on which a Certificate of Zoning Compliance is issued, construction has not begun on the structure for which the certificate had been issued, the certificate shall expire; but the Zoning ~~Official~~ Administrator shall

one (1) extension of six (6) months to the certificate if so requested by the applicant. Such request shall be granted without any requirement of any additional fee.

~~602302.4~~ Prior Approval Required for Plan Changes. Any changes proposal in the Town, for which a Certificate of Zoning Compliance has been issued, voids the Certificate of Zoning Compliance for the proposal. A new application consistent with Section 602.1 shall be submitted to the Town Zoning ~~Official Administrator~~ describing the project including all proposed changes. No construction shall take place that is inconsistent with the approved plans until amended plans are fully approved by the Zoning ~~Official Administrator~~.

~~602302.5~~ Re-submission of Application for Zoning Compliance. An denied by the Zoning ~~Official Administrator~~ but not appealed to the Board of may be re-submitted not more than once, unless there is a material change in the application or a change in the zoning ordinances related to the application.

### 603303 Building and Occupancy Permits Required.

~~603303.1~~ Building Permit Required. Upon receiving a Certificate of Zoning the property owner shall obtain a Building Permit from the Town of Montreat Building Inspector for the construction or structural alteration of any Building or Structure. A permit fee, as set by the Town Commissioners shall be paid to the Town.

~~603303.2~~ Building Permit Expiration. A Building ~~permit~~Permit from the date it was issued if the work authorized by the Building Permit has not been commenced. In addition, a Building Permit shall immediately expire if the work authorized by the Building Permit has been commenced but has been discontinued for a period of twelve (12) months.

~~603303.3~~ Certificate of Occupancy Required. No new Building or part 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.

~~603303.4~~ Certificate of Compliance. At the conclusion of all work done under a the appropriate inspector shall make a final inspection and if he or she finds that

**Montreat Zoning Ordinances**  
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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.

~~604~~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 ~~Official~~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.

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~~605~~305. **Appeal from the Zoning ~~Official~~Administrator.** All questions arising in connection with this Ordinance shall be presented first to the Zoning ~~Official~~Administrator, and such questions shall be presented to the Board of Adjustment only as an appeal from a ruling of the Zoning ~~Official~~Administrator. Any order, requirement, decision or determination made by the Zoning ~~Official~~Administrator shall be recorded in writing and may be appealed to the Board of Adjustment pursuant to the procedure found in Article XII of this Ordinance.

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306 **Notice of Violations and Citation Procedures.**

306.1 **Notice Required Before Penalty.** ~~No penalty shall be assessed unless and until the person alleged to be in violation has been notified of the violation in accordance with this section.~~

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~~606~~ **Use.** ~~No Building, Structure or land shall hereafter be used or occupied and no Building or Structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the Zoning District in which it is located.~~

~~606.1~~ ~~No part of a yard, off-street parking or loading space, or other open space required in connection with any Building for the purpose of complying with this Ordinance shall be used and included as part of a yard, open space, or off-street parking or loading space similarly required for any other Building.~~

**Montreat Zoning Ordinances  
Article VI: General Provisions**

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~~606.2 Rights-of-way or access easements shall not be considered a part of a lot or open space, or front, side, or rear yard for the purpose of meeting yard requirements.~~

~~607. Lot Reduction Prohibited. No yard or lot existing at the time of the passage of this Ordinance shall be reduced in dimension or area below the minimum requirement set herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set by this Ordinance.~~

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~~608. Every Lot Must Have Access to a Street. No Building, Structure or use of land for other than agricultural purposes shall be established on a lot within Town limits which does not have 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 does not have access to a platted roadway. Access shall be a strip of land with a minimum width of twelve feet (12') connecting any lot that does not abut a street with the nearest street to said lot. Said strip shall be under the same ownership as the lot to which it provides access and connected to the nearest street or shall be an easement of record and appurtenant to the lot for which it provides access. If the street or road serving the proposed development does not meet the Town street standards, the developer shall make the necessary improvements to bring the street or road up to Town standards.~~

~~609. Minimum Lot Area. The minimum lot area shall as specified in Article VII for each Zoning District. In areas not served by a public or community sewer system, the minimum lot area shall be determined by the Buncombe County Health Department. This minimum lot area shall be that necessary for safe on site waste disposal system, but in no case, shall the lot be smaller than the required area for the Zoning District in which it is located.~~

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~~610. Height and Density. No Structure shall hereafter be erected or altered so as to exceed the density and height regulations of this Ordinance for the District in which it is located.~~

~~611. One Principal Building Per Lot. Every Building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one (1) principal Building and its accessory Buildings on the lot.~~

~~612. Accessory Buildings and Uses.~~

~~612.1 General Requirements.~~

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~~1) Accessory buildings shall not be used as a dwelling unit.~~

~~2)1) In residential zoning districts, no more than two (2) accessory buildings or uses shall be permitted per lot.~~



## Montreat Zoning Ordinances Article VI: General Provisions

- ~~3) Accessory buildings larger than six hundred (600) square feet including~~  
~~4)1) Accessory buildings of use or structure shall be no more than ten (10) feet in height by~~  
the respective zoning district. Garages shall be located only in the side or rear yards and must meet the minimum setbacks required by the respective zoning district except under the provisions found in Section 612.2.

- ~~5)1) Accessory buildings with any dimension greater than twelve feet (12') must meet the provisions of current NC State Residential Building Code.~~

~~612.2 Garages.~~ In addition to meeting the general requirements of Section 612.1, a residential property owner may apply for a conditional use permit to build a garage within the front yard setback subject to meeting all the following conditions:

- ~~1) The zoning administrator determines this will reduce damage to the natural topography, trees and natural green space, or where the topography will create a hardship that would result in significant damage to the topography, trees and plant life without such relief;~~
- ~~2) The materials used, meet or exceed the quality and appearance of the principal residence when the principal residence is new;~~
- ~~3) The garage will be enclosed by an operable garage door to be maintained in good working order;~~
- ~~4)1) The garage doors shall be kept closed when the house is unoccupied for more than one day; and~~
- ~~5)1) The property owner agrees to maintain the garage and its appearance to reasonably remain in the condition it is in when completed and approved by the Building Inspector. The Zoning Administrator shall determine when this provision has been violated.~~

~~612.3 Portable Storage Container.~~ In addition to meeting the general requirements found in Section 612.1, portable storage containers shall meet the following conditions:

- ~~1) Portable storage containers shall not be located or placed within any easements or street rights-of-way.~~
- ~~2)1) Portable storage containers are to be used for storage incidental to the principal use on the same lot. Storage trailers shall not be used for retail sales or any other principal use.~~
- ~~3)1) A portable storage container shall be allowed on a property for a continuous period of no more than one hundred and eighty (180) days per twelve month period. Exceptions to this time limit may be made by the Zoning Administrator to compensate for an act of God.~~
- ~~4)1) In Residential Districts (R-1, R-2, R-3), portable storage containers shall not be more than eight (8) feet in width and not more than twenty-four (24) feet in length.~~

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~~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:~~

- ~~1) The proposed accessibility improvements shall be demonstrated to be the least possible modification of the setback(s) that provides "reasonable accommodations" within the zoning ordinance to avoid discrimination against individuals with disabilities.~~
- ~~2) Expansion of, or addition to, decks and other appurtenant structures beyond what is deemed necessary by the Zoning Official to provide reasonable accommodation for accessibility shall not be permitted.~~
- ~~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~~
- ~~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.~~
- ~~5) The applicant may apply for a conditional use permit if requesting reasonable accommodation for individuals with disabilities.~~

~~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 Official shall determine which setback, side yard and rear yard requirements apply.~~

~~614. Double Frontage Lots. On lots having frontage on two streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this Ordinance. On lots having frontage on more than two streets, the~~

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~~615 Special Front Yard Requirements in Developed Areas. The setback requirements of this Ordinance shall not apply to any lot where the average front setback on already built upon lots located wholly or in part within the same block and Zoning District and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the setback on such a lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots. However, in no case shall front setbacks be less than fifteen feet (15').~~

~~616 Non-Conformities. Any non-conforming use, Structure, or lot which lawfully existed as of November 14, 1985, the date the original Section 617 was enacted, and which remains non-conforming and any use, Structure or lot which has become non-conforming as a result of the enactment of the amendment to this Section may be continued or maintained only in accordance with the terms of this Section. However, this Section shall not apply to any feature for which a variance has been granted by the Zoning Board of Adjustment subsequent to November 14, 1985.~~

~~616.1 Non-Conforming Vacant Lots.~~

~~616.11 A non-conforming vacant lot is a lot upon which no Structure is located and which does not meet the dimensional requirements for the zoning district in which it is located, but which (i) was shown on a plat or described in a deed recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, before November 14, 1985, and (ii) was not in violation of any subdivision regulation of the Town of Montreat at the time the deed describing or plat showing the lot was recorded.~~

~~616.12 A non-conforming vacant lot may be used for any of the uses permitted by this Ordinance in the zoning district in which it is located if the use of the lot meets the following requirements:~~

- ~~1) If a non-conforming vacant lot adjoins one or more lots in the same ownership at any time since November 14, 1985, then the provisions of this Section shall not apply to such non-conforming vacant lot until the owner of the non-conforming vacant lot combines the non-conforming vacant lot with the adjoining lot or lots to create one lot. The intent of this Subsection is to require non-conforming lots to be combined with other lots to create conforming lots under the circumstances specified herein; and~~
- ~~2) All other minimum requirements for the zoning district in which the non-conforming vacant lot is located must be met or a variance obtained from the Zoning Board of Adjustment.~~

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~~616.21 A non-conforming improved lot is a lot upon which a Structure was located on November 14, 1985, but which does not meet the minimum requirements for the zoning district in which it is located. This definition includes situations where both the lot and Structure are non-conforming and where only the lot is non-conforming.~~

~~616.22 Any improvement on a non-conforming improved lot may be used, without expansion, by a conforming use or may be expanded in accordance with the following requirements:~~

- ~~1) If a non-conforming improved lot adjoins one or more lots in the same ownership at any time since November 14, 1985, then the provisions of this Section shall not apply to such non-conforming improved lot until the owner of the non-conforming improved lot combines the non-conforming improved lot with the adjoining lot or lots to create one lot. The intent of this Subsection is to require non-conforming lots to be combined with other lots to create conforming lots under the circumstances specified herein; and~~

~~Any expansion of any improvement on a non-conforming improved lot must comply with all other minimum requirements for the zoning district in which the non-conforming improved is located or a variance must be obtained from the Zoning Board of Adjustment.~~

~~**616.3 Non-Conforming Structures on Conforming Lots.**~~

~~616.31 A non-conforming Structure on a conforming lot is a Structure which was in existence on November 14, 1985, but which does not meet the minimum requirements for the zoning district in which it is located but which is located on a lot which does conform to the zoning district regulations.~~

~~616.32 A non-conforming Structure on a conforming lot may continue to be used in and may be expanded in accordance with all other minimum requirements of this Ordinance or a variance obtained from the Zoning Board of Adjustment.~~

~~**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 be permitted by the Ordinance in the zoning district in which it is located. A legally established 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) 1) 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) 1) A non-conforming use of a Structure may be enlarged or extended only into~~

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~~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.~~

~~616.5 Maintenance and Repair of Non-Conforming Structures. In the interest of public safety and health, repairs and structural alterations to non-conforming Structures may be permitted. Repairs and structural alterations required by law or ordered by an authorized public officer shall be permitted. Routine maintenance of non-conforming Structures shall be permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.~~

~~616.51 A non-conforming Structure which is damaged by fire or natural disaster may be repaired subject to the following requirements:~~

- ~~1) The square foot area of the Structure shall not be increased;~~
- ~~2) The repair of the Structure must be completed within one year of the date of the fire or natural disaster; and~~
- ~~3) The use of the Structure after repair shall not result in a change from one non-conforming use to another non-conforming use.~~

~~617 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.~~

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~~618 Land Covenants. Unless restrictions established by covenants with the land are prohibited by or are contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.~~

~~619 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.~~

~~620 Parking and Storage of Unregistered Vehicles. Unregistered automotive vehicles shall not be parked or stored on any residentially zoned property other than in enclosed Buildings.~~

~~621 Nuisances and Hazards at Building Sites. The holder of any Building Permit issued by the Town Building Inspector shall be responsible for maintaining the corresponding construction site free of rubbish, hazards, and unsightly conditions from the beginning of construction until occupancy. The Zoning Official (or his or her designee) or the Building Inspector shall determine if a hazardous or unsightly condition exists and notify the holder of the Building Permit of a potential violation of this ordinance. The Town shall begin~~

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**622 — Manufactured Homes.**

~~622.1 Purpose. To establish review guidelines for manufactured homes in order to insure that such homes will meet certain specifications and will provide pleasant living conditions while protecting adjacent property.~~

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~~622.2 Location. Any manufactured home established as a residence within the Town of Montreat after the adoption of this Ordinance may be located on a lot in the R-1 Residential Zoning District. Manufactured homes used as residences on individual lots shall be considered principal uses for the purposes of this Ordinance and shall be subject to the criteria set forth in Section 623.4-5 below.~~

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~~622.3 Exemptions. Manufactured homes on lots may be exempt from the criteria in Section 623.4-5 providing that a valid Temporary Manufactured Home Placement permit is obtained from the Zoning Official. Each permit, when granted, shall be for one (1) calendar month, after which said permit can be renewed provided the below criteria are met.~~

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~~622.31 When fire, flood, or other natural catastrophe makes an existing single family dwelling uninhabitable, the Zoning Official shall allow a manufactured home to be used on the same lot as a temporary residence for a period not to exceed six (6) months.~~

~~622.32 During the active construction period of any one family dwelling, the Zoning Official shall allow a manufactured home on the same lot by the owner of the lot for a period not to exceed twelve (12) months or the active construction period, whichever is less.~~

~~622.33 During the active construction period of a construction project, the Zoning Official shall permit a manufactured home on the same lot for a period not to exceed twenty four (24) months or the active construction period, whichever is less.~~

~~622.34 During the active promotion of any residential subdivision the Zoning Official shall permit a manufactured home within the development to be used solely for the purpose of a temporary sales office for a period of up to twelve (12) months. The manufactured home may not serve as a residence.~~

~~622.4 Classes of Manufactured Homes. For the purposes of this Ordinance, manufactured homes shall be classed as follows: A manufactured home must meet all of the restrictions outlined under a particular class before it may be classified either A, B, or C.~~

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~~1) The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;~~

~~2) The unit must comply with the appearance criteria set forth in Section 622.5; and~~

~~3) The unit must not exceed a length to width ratio of 3:1.~~

~~622.42 Class B. This class of manufactured home shall be allowed as a conditional use in the R 1 Zoning District. In order for a manufactured home to be placed within this class, it must adhere to the following standards:~~

~~1) The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;~~

~~2) The unit must comply with the appearance criteria set forth in Section 622.5; and~~

~~3) The unit must not exceed a length to width ratio of 4:1.~~

~~622.43 Class C. This class shall not be allowed in the Town of Montreat, except for use by a temporary business as outlined in Section 622.34 above, and shall include all manufactured homes which cannot be classified as either Class A or Class B manufactured home.~~

~~622.5 Appearance Criteria. Class A and Class B manufactured homes must meet the following criteria. Before issuing a Certificate of Occupancy for a Class A or a Class B manufactured home, the Zoning Official must certify the home meets the following appearance criteria.~~

~~622.51 Chassis Removal. The home shall have wheels, axles, transporting lights and towing apparatus removed.~~

~~622.52 Foundation. A continuous primarily masonry foundation, unpierced except for required ventilation and access shall be installed under all elements of the Structure. Footings for walls shall be below the frost line. The ground surface below the foundation shall be protected with a poly vapor barrier. Installation shall include a positive surface water drainage away from the home.~~

~~622.53 Roofing. The home shall have a pitched roof and the roofing material must be compatible with residential construction within the area in which it is located.~~

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~~623 Regulations for Cut and Fill Slopes. Cut and fill slopes shall not exceed a 1:1 cut and 1.5:1 (horizontal distance:vertical distance). However, if stable exposed rock is the intended result, the cut and/or fill slope may be increased with approval of the Code Administrator and supporting recommendation from a North Carolina-registered professional engineer~~

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~~624 Regional Flood Fringe Area Regulations. Area lying within the area delineated on the Zoning Map as regional flood fringe area of any stream shall be subject to the following regulations:~~

~~624.1 No Building or Structure shall be erected, and no existing Building or Structure shall be extended or moved unless the first floor of said Building or Structure is placed one foot (1') or more above the elevation of the regional flood. No basement floor or other floor shall be constructed below or at a lower elevation than one foot (1') above the elevation of the regional flood;~~

~~624.2 Foundations of all Structures shall be designed to withstand flood conditions at the site;~~

~~624.3 Land may be filled within these flood fringe areas provided such fill extends twenty feet (20') beyond the limits of any Structures erected thereon; and~~

~~624.4 The underground storage of any fuel or flammable liquids is prohibited in the flood fringe area.~~

~~625 Drainage. A twenty four inch diameter culvert or other means of drainage to control storm water runoff is required for each driveway or roadway connected to any public or private road in the Town of Montreat. Consultation is required with the Public Works Director regarding the type, material, placement, and method of installation of each such drainage facility. Written plans for drainage will be submitted to the Zoning Official for zoning compliance approval.~~

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~~626.1 Sedimentation Control. All land disturbing activity is to be planned and conducted so as to prevent off site sedimentation and storm water runoff damage.~~

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~~626 Agricultural Uses. Agricultural enterprises are allowed in certain Districts in the Town (see Section 700). Such uses are allowed with the understanding by the Town that the land will be managed in such a way as to generate no off site adverse effects such as sedimentation or other water pollution. As a general rule, grazing a horse on less than two acres is likely to produce such adverse effects. The Town Zoning Official is authorized to investigate reports of adverse off-site impacts of any land use and to report such activities to appropriate regulatory agencies.~~

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~~627 Parking and Storage of Travel Trailers, Campers and Recreational Vehicles.~~



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1) ~~Exceptions to the requirements of this section shall be made for any visitor of a resident of the Town when the visitor parks the travel trailer, camper, or recreational vehicle on property of the Town resident, with the permission of the resident and for a period not to exceed seven (7) days per year. No more than one such travel trailer, camper, or recreational vehicle occupied by visitors shall be allowed to park on any lot in the Town.~~

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2) ~~The provisions of this section shall not be interpreted to prevent the storage or occasional use of a vacant travel trailer, camper, or recreational vehicle at a residence in the Town by the owner of that residence. Occasional use shall mean not more than seven days in succession nor more than four times in a twelve month period.~~

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3) ~~No travel trailer, camper, or recreational vehicle shall be offered for rent or lease on a short or long term basis in the Town.~~

~~627.2 Parking on Public Property Prohibited. No person shall park a travel trailer, camper, or recreational vehicle for the purpose of overnight habitation on any public property in the Town including but not limited to public streets, street rights of way, walkways, sidewalks, parking lots, and any other public area.~~

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~~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.~~

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~~629 Driveway Connections. To the greatest extent practicable, and unless otherwise approved by the Town, driveway connections to public streets shall be made within the adjacent frontage area described by lines extending perpendicular from the streetside to the nearest property corners. If existing conditions or other factors, including but not limited to excessively steep gradient or stormwater control considerations pose inordinate difficulty for, or preclude, a driveway connection to the public street solely within the frontage area described above, application shall be made to the Board of Adjustment seeking a variance from the provisions stated herein. The variance requirement shall be waived if an easement is granted by the neighboring landowners(s) permitting driveway access through the grantor's lot.~~

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~~630 Existing Flora. All developers of public and private property shall make every effort to protect and retain existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage ways, Building foundation sites, private driveways, paths and public walkways wherever possible. Trees are to be protected and preserved during construction in accordance with sound conservation practices. All such trees may be preserved by well islands or retaining walls wherever abutting grades are altered.~~

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~~631 Landscaping Requirements.~~

~~631.1 Purpose. The intent of this section is to improve the appearance, quality and quantity of landscaped areas that are visible from public roadways and within parking lots, in accordance with the following purposes:~~

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- ~~1) To assist in providing adequate light and air and in preventing overcrowding of land;~~
- ~~2)1) To provide visual buffering and to enhance the beautification of the Town;~~
- ~~3)1) To safeguard and enhance property values and to protect public and private investment;~~
- ~~4)1) To preserve, protect and restore the unique identity and environment of the Town of Montreat;~~
- ~~5)1) To encourage the preservation of existing trees and vegetation;~~
- ~~6)1) To aid in stabilizing the environment by contributing to the process of air purification, ground water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, and heat reduction;~~
- ~~7)1) To conserve energy; and~~
- ~~8)1) To protect the public health, safety and general welfare of the Town.~~

~~The Zoning Official shall report to the Planning and Zoning Commission annually on implementation of the ordinance, including any recommendation for changes.~~

~~631.2 Applicability. The requirements of this Section shall apply to all land zoned Institutional and Institutional/Residential, and may apply to all single, two family and group dwellings in the Town of Montreat's zoning jurisdiction. None of the uses authorized in Article VII of this Ordinance shall be permitted until the requirements of this Section are met.~~

~~631.3 Landscape Plan Required. The landscape plan required by this Section shall accompany any request for a Building Permit from or plat approval by the Town~~

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~~631.4 General Provisions.~~

~~631.41 All plant materials used to comply with the requirements of this Section should be native or appropriate species for this geographic area. A list of recommended species for landscaping is provided in Appendix A.~~

~~631.42 A temporary Certificate of Occupancy may be issued to a developer/owner if the landscaping cannot be planted at the time the use opens or is re-established due to inappropriate timing for the growing season. A temporary Certificate of Occupancy shall specify the date that the landscaping will be planted. The Building Inspector shall have the authority to revoke the temporary Certificate of Occupancy if the landscaping is not planted by the date specified. The developer/owner shall also guarantee in writing that he/she or his/her successors, shall provide the required landscaping within the time period specified in the temporary Certificate of Occupancy.~~

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~~631.43 Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard.~~

~~631.44 All landscape planting areas shall be stabilized from dust and soil erosion immediately upon planting and shall be so maintained for the duration of the premises.~~

~~631.45 The property owner is responsible for maintaining all required plant material in good health.~~

~~631.46 Credit for Existing Trees. The Zoning Official may waive the requirement to provide the new trees required by this ordinance if trees existing on the site are protected and maintained before, during and after construction in accordance with sound conservation practices. If a saved tree dies at any time, it shall be replaced with a tree (or trees) that will provide similar screening or shading.~~

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~~631.47 Exceptions. The Zoning Official shall review the landscaping requirements of this Section with each applicant for a Certificate of Zoning Compliance. The Zoning Official is authorized to waive specific landscape requirements, or portions thereof, if meeting the requirements will cause insurmountable difficulties for a development proposal.~~

~~631.5 Landscape Plan Contents. The landscape plan required in Section 632.3 shall contain the following elements:~~

~~1) Existing and proposed landscaping;~~

~~2) Any screening required by Sections Article VII;~~

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- ~~4)1) Existing vegetation intended to be saved under the provisions of 632.46; and~~  
~~5)1) Topographic contours at intervals of not more than five feet, indication of the direction of storm water flow, and a description of all storm water control facilities.~~

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~~631.6 Landscaping Required For All Sites. No less than five percent (5%) of the lot or parcel which is the subject of the required landscape plan shall be landscaped. This requirement may be met with both existing and new plants and trees. This requirement shall be met in addition to any area required for screening, provided that the total area of the site devoted to landscaping shall not be required to exceed forty percent (40%) of the site.~~

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~~631.7 Off-Street Parking and Loading Areas. Landscaping shall be required in and around all new or redesigned off-street parking and loading areas. Landscaping shall also be required in and around existing off-street parking and loading areas when a change in ownership occurs. In the case of a change in ownership, the new owner shall have one year to comply with the requirements. Landscaping shall be provided in these areas as follows:~~

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~~631.71 For parking lots less than 2,500 square feet in parking area, no landscaping is required by this subsection. However the provisions of subsection 632.76 apply to all public parking lots. For parking lots greater than 2,500 square feet in size, the following overall requirements apply:~~

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| <del>Total area of parking lot<br/>(square feet)</del> | <del>Percent of parking lot area (square feet)<br/>that must be landscaped</del> |
|--|--|
| <del>2,500 to 9,999</del>                              | <del>3%</del>  |
| <del>10,000 to 49,999</del>                            | <del>5%</del>  |
| <del>50,000 to 149,999</del>                           | <del>8%</del>  |
| <del>150,000 or larger</del>                           | <del>10%</del>   |

~~631.72 At least 50% of the required parking lot landscaping shall be provided as islands within the parking lot. One planting island is recommended for every 10 to 15 spaces.~~

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~~631.74~~ No parking space shall be more than 75 feet from a tree or 100 feet from plantings of more than one tree.

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~~631.75~~ Shrubs and other types of plant materials shall be used which will complement the tree plantings subject to approval by the Zoning Official.

~~631.76~~ All public parking and loading areas within 50 feet of a public right of way must include a visual screen that meets the following standards:

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~~1) At least 75% of vertical plane between the right of way and the parking area up to a height of 3 ½ feet shall be screened. Plant materials shall be provided which can reasonably be expected to meet this standard within three years;~~

~~2) The screen may be composed of vegetated earth berms, plant materials or a combination; and~~

~~3) No screen is required at parking lot entrances or exits.~~

**632 Fences:**

~~632.1 No fence shall be located, constructed or maintained in such a way as to obstruct the view of motorists or pedestrians using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.~~

~~632.2 Electrically charged fences and other sharp metal or glass fences are prohibited. Barbed wire fences are prohibited except as listed in 633.3.~~

~~632.3 Barbed wire fences are allowed only for special security or safety needs (such as high towers, electrical high voltage site, hazardous equipment, etc.) The barbed wire will be higher than six (6) feet, constructed of no more than three (3) strands and will project over the projected property on the interior side. Barbed wire will not be used as part of a residential fence.~~

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~~632.4 Non-compliant fences shall be removed or brought into compliance within six (6) months of the effective date of this ordinance.~~

## TOWN OF MONTREAT

### ZONING ORDINANCE

#### ARTICLE VII – ZONING DISTRICT REGULATIONS

*(Revised 6/14/2001); (Revised 3/10/2005); (Revised 5/10/2007)  
(Revised 11/30/2009); (Revised (9/12/2013)*

#### 700 — Permitted Uses Table:

700.1 The following table establishes what principal uses will be allowed in which Zoning Districts in the Town of Montreat. The uses in this table will be permitted as indicated and shall conform to all regulations of the applicable Zoning District. Uses which are not listed in the Table are not permitted in the Town of Montreat.

700.2 When shown with an asterisk (\*), the use is permitted only as a "Conditional Use" and will be approved in accordance with the provisions of Article VIII of this Ordinance. ~~When shown with a double asterisk (\*\*), the use is permitted only as an "Accessory Use."~~

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| USE   | DISTRICT       |                |                |               |              |               |                |               |                |    |
|---|----------------|----------------|----------------|---------------|--------------|---------------|----------------|---------------|----------------|----|
|   | <del>R-1</del> | <del>R-2</del> | <del>R-3</del> | <del>IR</del> | <del>I</del> | <del>WL</del> | <del>RPO</del> | <del>CD</del> | <del>TCO</del> |    |
| Accessory Buildings or Uses   | X              | X              | X              | X             | X            |               |                |               |                | X  |
| Agriculture excluding logging and timber harvest  |                |                |                |               |              | X             | X              | X*            |                |    |
| Amusements, Commercial: including, but not limited to miniature golf, bowling lanes, indoor theaters, dance halls, skating rinks, swimming pools, and tennis courts |                |                |                |               | X*           |               |                |               |                | X* |
| Art Galleries   |                |                |                | X*            | X*           |               |                |               |                | X* |
| Auditorium  |                |                |                | X*            | X*           |               |                |               |                | X* |
| Bakeries  |                |                |                | X*            |              |               |                |               |                | X* |
| Banks   |                |                |                | X*            |              |               |                |               |                | X* |
| Barber and Beauty Shops   |                |                |                | X*            |              |               |                |               |                | X* |
| Bed and Breakfast, Home   |                | X*             |                | X*            | X            |               |                |               |                | X  |
| Bed and Breakfast, Inn  |                | X*             |                | X*            | X            |               |                |               |                | X  |

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|  |     |     |     |     |    |    |  |    |     |
|--|-----|-----|-----|-----|----|----|--|----|-----|
| Boarding Houses                                |     | X*  |     | X*  | X  |    |  |    | X   |
| Camps, Summer                                  |     |     |     |     | X* | X* |  |    |     |
| Campgrounds                                    |     |     |     |     | X* | X* |  |    |     |
| Conference Center                              |     |     |     | X*  | X  |    |  |    | X   |
| Churches                                       |     |     |     | X*  | X  |    |  |    | X   |
| Columbarium                                    |     |     | X*  | X*  | X* | X* |  | X* | X*  |
| Copying and Duplicating Services               |     |     |     | X*  | X  |    |  |    | X   |
| Community Facility                             |     | X*  |     | X*  | X  |    |  |    | X   |
| Customary Home Occupations                     | X** | X** | X** | X** |    |    |  |    | X** |
| Dancing Instruction                            |     |     |     | X*  |    |    |  |    | X*  |
| Dormitory                                      |     |     |     |     | X  |    |  |    | X   |
| Drug Stores and Pharmacies                     |     |     |     | X*  | X  |    |  |    | X   |
| Dwellings:                                     |     |     |     |     |    |    |  |    |     |
| Single-family                                  | X   | X   | X   | X   |    |    |  |    | X*  |
| Two-Family                                     | X   | X   | X   | X   |    |    |  |    | X*  |
| Multi-Family                                   |     | X*  |     | X   |    |    |  |    | X*  |
| Group  |     | X*  |     | X*  | X* |    |  |    | X*  |
|  |     | X*  |     | X*  |    |    |  |    |     |
| Eating Establishments (Excluding Drive-ins)    |     |     |     | X*  | X  |    |  |    | X   |
| Educational Facility                           |     |     |     | X   | X  |    |  |    | X   |
| Family Care Homes                              | X   | X   | X   | X   |    |    |  |    | X   |
| General Merchandise Retail                     |     |     |     | X*  | X  |    |  |    | X   |
| Grocery Stores — Convenience                   |     |     |     | X*  | X  |    |  |    | X   |
| Group Care Facility                            |     | X*  |     | X*  |    |    |  |    | X*  |
| Hospitals                                      |     |     |     | X*  | X* |    |  |    | X*  |
| Inn  |     |     |     | X*  | X  |    |  |    | X   |
| Laundries, Dry-Cleaning, Linen Supply Services |     |     |     | X*  | X  |    |  |    | X   |
| Laundries, Self-Service                        |     | X*  |     | X*  | X  |    |  |    | X   |
| Libraries, Public                              |     |     |     | X*  | X* |    |  |    | X*  |

|  |     |     |     |     |    |    |  |    |    |
|--|-----|-----|-----|-----|----|----|--|----|----|
| Lodge  |     |     |     | X*  | X  |    |  |    | X  |
| Medical and Dental Clinics   |     |     |     |     | X* |    |  |    | X* |
| Manufactured Homes (See Section 623)   | X*  |     |     |     |    |    |  |    |    |
| Motel  |     |     |     |     | X  |    |  |    | X  |
| Municipal Government Facilities  | X*  | X*  | X*  | X   | X  |    |  |    | X  |
| Museums, Public  |     |     |     | X   | X  |    |  |    | X  |
| Nursing Homes, Rest Homes, Homes for the Aged and Similar Establishments (See Group Care Facility) |     |     |     |     |    |    |  |    |    |
| Professional Offices, including but not limited to medical, dental, law, or real estate            |     |     |     | X*  | X* |    |  |    | X* |
| Parks or other Public Recreational Facilities  | X*  | X*  | X*  | X*  | X* | X* |  | X* | X* |
| Printing, Publishing, Blue-Printing, Photostating, Newspaper and Job Printing                      |     |     |     | X*  | X* |    |  |    | X* |
| Public Streets and Utilities   | X   | X   | X   | X   | X  | X  |  | X* | X  |
| Public Works Maintenance Facility  | X*  | X*  | X*  | X   | X  |    |  |    | X  |
| Riding Stables   |     |     |     |     |    | X* |  |    |    |
| Signs: Subject to Article X  | X   | X   | X   | X   | X  |    |  | X* | X  |
| Studios  | X** | X** | X** | X** | X  |    |  |    | X  |
| Swimming Pools, Private  | X** | X** | X** | X** |    |    |  |    |    |
| Swimming Pools, Public   |     |     |     | X*  | X* |    |  |    | X* |
| Theaters, Privately Operated   |     |     |     |     | X* |    |  |    | X* |
| Theaters, Public Outdoor   |     |     |     |     | X* |    |  |    | X* |
| Veterinarians  |     |     |     | X*  |    |    |  |    | X* |

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~~

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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 the area is excluded.

| Zoning District and Use | Minimum Lot Dimensions |              |              | Minimum Yard/Setback  |                 |             |
|-------------------------|------------------------|--------------|--------------|---|-----------------|-------------|
|                         | Size (sq. ft.)         | Width (feet) | Depth (feet) | Front (feet)  | Side (feet)     | Rear (feet) |
| <b>R-1</b>              |                        |              |              |   |                 |             |
| Single Family, Group    | 10,000                 | 75           | 100          | 30  | 15              | **          |
| Two Family              | 15,000                 | 75           | 100          | 30  | 15              | **          |
| Other uses              | 15,000                 | 75           | 100          | 30  | 25              | **          |
|                         |                        |              |              |   |                 |             |
| <b>R-2</b>              |                        |              |              |   |                 |             |
| Single Family, Group    | 8,000                  | 60           | 100          | 30  | 10              | **          |
| Two Family              | 12,000                 | 60           | 100          | 30  | 10              | **          |
| Multifamily*            | 20,000                 | 60           | 100          | 30  | 20              | **          |
| Other uses              | 12,000                 | 60           | 100          | 30  | 20              | **          |
|                         |                        |              |              |   |                 |             |
| <b>R-3 (septic)</b>     |                        |              |              |   |                 |             |
| Single Family           | 20,000                 | 75           | 100          | 30  | 15              | **          |
| Two Family              | 30,000                 | 75           | 100          | 30  | 15              | **          |
| Other uses              | 30,000                 | 75           | 100          | 30  | 25              | **          |
|                         |                        |              |              |   |                 |             |
| <b>I/R</b>              |                        |              |              |   |                 |             |
| Single Family           | 6,000                  | 65           | 100          | 25  | 12/17.5         | 25          |
| Two Family              | 10,000                 | 80           | 100          | 25  | 12/17.5         | 25          |
| Multifamily***          | 15,000                 | 100          | 100          | 25  | 12/17.5         | 25          |
| Other uses              | 10,000                 | 100          | 100          | 25  | 12/17.5         | 25          |
|                         |                        |              |              |   | interior/corner |             |
|                         |                        |              |              |   |                 |             |
| ↓                       |                        |              |              |   |                 |             |
| All permitted uses      | 7,500                  | 75           | 100          | N/A 25' from street right of way and when adjacent to a different Zoning District |                 |             |

\* 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.

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## **TOWN OF MONTREAT**

306.2 Notice of Violation. Whenever any Town official charged with the duty of enforcing regulations in this Ordinance has reasonable cause to believe that a person is violating any of the provisions of this Ordinance or any plan, order, or condition issued pursuant to this ordinance, that official shall cause the condition to be remedied. If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action after having been informed of the violation, the Zoning Administrator shall give the owner or occupant written notice (NOV), by certified or registered mail, to his last known address or by personal service or by posting notice of the violation conspicuously on the property:

- (1) that the land, building, sign, structure, or use is in violation of this Ordinance;
- (2) the nature of the violation, and citation of the Section of this Ordinance violated;
- (3) the measures necessary to remedy the violation; and,
- (4) a notification of owner or occupant's right to appeal.

306.3 Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment, in accordance with the provisions of Article -----, within thirty days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Administrator in the Notice of Violation shall be final.

306.4 Order of Corrective Action. - If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

306.5 Failure to Comply with an Order - If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by State Law. If the owner or occupant fails to comply with the remedies and

penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

307 Responsibility for Violations. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the 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 violation may be enjoined and restrained as provided in N.C.G.S. § ~~160A-175~~160D-404.

~~1402.1 Remedies and Penalties~~308.1 Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

(A) Injunction - Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(B) Civil Penalties - Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 30-7.5

(C) Denial of Permit or Certificate - The Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

(D) Conditional Permit - The Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the county attorney.

(E) Revocation of Permits - In accordance with Section 30-8.6, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(F) Criminal Penalties - Any violation of this Ordinance shall be a misdemeanor or infraction as provided by N.C.G.S. § 14-4.

(G) State and Common Law Remedies - In addition to other enforcement provisions contained in this Article, the Town Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

### 308.2 Penalties

(A) Penalties - Any person who violates any provisions of this Ordinance shall be subject to assessment of the maximum civil penalty allowed by law.

(B) Notice - No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 30-7.3. If after receiving a notice of violation under Section 30-7.3, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen days of the date of the notice.

(C) Responsible Parties - The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(D) Continuing Violation - For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(E) Demand for Payment - The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

(F) Nonpayment - If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Zoning Administrator may have a criminal summons or warrant issued against

the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to N.C.G.S. § 14-4.

308.3 Remedies. 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~~

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

C)Disapproval of Subsequent Permits and Development Approvals: As long as a violation of this Ordinance continues and remains uncorrected, the Zoning ~~Official~~Administrator or other authorized agent may withhold, and the Town Planning Commission or Board of Adjustment may disapprove, any request for permit or development approval or authorization provided for by this Ordinance for the property on which the violation occurs.

D)Injunction and Order of Abatement: The Zoning ~~Official~~Administrator, with the authorization of the Town Administrator, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

E)Abatement of Public Health Nuisance: ~~\_\_\_\_\_~~ If the violation is dangerous or to the public health or public safety and is within the geographic limits prescribed by ~~North Carolina~~ N.C.G.S. § 160A-193, the Zoning ~~Official~~Administrator, with the the Town Administrator, may remove, abate or remedy the violation and the costs, if not paid, shall be a lien against the property ~~in accordance with G.S. § 160A-143.~~

309 Establishment of the Planning and Zoning Commission. The Planning and Zoning Commission shall be composed of seven members for matters within the Town of Montreat and for extraterritorial matters. The seven-member Planning Commission shall be composed of five members residing in the Town of Montreat, one member residing in Buncombe County, and one residing in McDowell County. **\*\*Note: No one lives in this part of McDowell County, therefore no member necessary.** Two alternate members shall reside in the Town of Montreat. Members shall serve a term of three years. No member

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shall serve more than two consecutive terms. When a vacancy occurs on the Board for the member representing Buncombe or McDowell County, the Town shall notify the respective Board of County Commissioners and request an appointment within 90 days. If no appointment is made during that period the Town Board of Commissioners shall fill the vacancy. All appointments to the Planning Commission shall comply with the requirements of N.C.G.S. § 160D-301.

310. Proceedings of the Planning and Zoning Commission. The Planning and Zoning Commission shall elect from the members a chair and a vice-chair who shall serve for one (1) year or until reelected or until a successor is elected. The Planning Commission shall appoint a secretary who may be a municipal officer, an employee of the Town, or a member of the Planning and Zoning Commission. The Planning Commission shall adopt rules for transaction of its business and shall keep records of its resolutions and discussions, findings and recommendations. Such records shall be public records and filed in the Town office. Meetings of the Planning Commission shall be held quarterly, at the call of the chair, and at other times as the Planning Commission may determine. There shall be a quorum of four (4) members for the purpose of taking an official action required by this Ordinance. The alternate member may vote in the absence of a regular member but his/her presence shall not be counted when establishing a quorum. All meetings of the Planning Commission shall be open to the public.

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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:

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- 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

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I. To perform any other duties to which it may be lawfully assigned.

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312 Zoning Board of Adjustment. The Board of Adjustment shall have the authority to rule on matters of interpretation of this Ordinance, consider appeals from decisions of the Zoning Administrator, issue Conditional Use Permits, grant variances and perform other duties as defined in this Ordinance. Any appeal from a decision of the Board of Adjustment shall be subject to review by the superior court pursuant to G.S. 160D-1402.

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 County, and one residing in McDowell County. The five-member Board of Adjustment shall be composed of five members residing in the Town of Montreat. Two alternate members shall reside in the Town of Montreat. When a vacancy occurs on the Board for the member representing Buncombe or McDowell County, the Town shall notify the respective Board of County Commissioners and request an appointment within 90 days. If no appointment is made during that period, the Town Board of Commissioners shall fill the vacancy. All appointments to the Board of Adjustment shall comply with the requirements of N.C.G.S. § 160D-302.

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314 Proceedings of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall elect a chair and a vice-chair from its members who shall serve for one (1) year or until reelected or until their successors are elected. The Board of Adjustment shall appoint a secretary. The Board of Adjustment shall adopt bylaws and rules in accordance with the provisions of this Ordinance and N.C.G.S. §160D-406. Meetings of the Board of Adjustment shall be held at the call of the chair and at other such times as the Board may determine. The chair, the vice-chair, or the clerk to the Board may administer oaths according to the procedures adopted in the Board's bylaws and rules. All meetings of the Board of Adjustment shall be open to the public.

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315 Appeal from the Decision of the Zoning Administrator. All questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator (See also Section 1203 D). A decision of the Zoning Administrator, as used in this section, refers to any final binding order, requirement, or determination made with respect to application of the Montreat Zoning Ordinance. Landowners may provide constructive notice of a final, binding determination by posting a sign on the affected site for 10 days in accordance with G.S. 160A-388(b1)(4).

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316 Powers and Duties of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall have the following powers and duties:

316.1 Appeals. The Board of Adjustment shall hear and decide appeals from decisions of the Zoning Administrator concerning enforcement of this Ordinance and

## Montreat Zoning Ordinances

### Article III: Administrative Provisions

appeals arising out of any other ordinance that regulates land use or development, in accordance with the following:

1. Any person who has standing under G.S. 160D-1402(c) or the Town may appeal a decision to the Board of Adjustment by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.
2. The Zoning Administrator (or other Town official who made the decision) shall give written notice of the decision to the owner of the property that is the 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.

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7. When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160D-1402(j).

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.

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In exercising the above powers, the Board of Adjustment may, in conformity with the provisions of G.S. 160D-405, reverse or affirm wholly or in part, or may modify the decision appealed from and shall make any order, requirements, decision or determination and to that end, shall have all of the powers of the Zoning Administrator.

316.2. Variance. When unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall grant a variance upon showing of all the following:

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1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.
5. The variance requested is the minimum variance that will make possible the legal use of the land, Building or Structure.
6. The variance is not a request to permit a use of land, Building or Structure which is not permitted in the Zoning District involved.

The existence of a non-conforming use of neighboring land, Building or Structures in the same Zoning District or of permitted or non-conforming use in other Zoning Districts shall not constitute a reason for granting the requested variance. In granting a variance, the Board of Adjustment shall make written findings that all of the requirements listed above have been met. If a variance is granted it shall be the least possible deviation from the requirements of this subchapter. In granting any

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variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Article. Violations of the provisions of the variance granted, including any conditions or safeguards, which are a part of the grant of the variance, shall be deemed a violation of this Ordinance. The Board of Adjustment may hear appeals to grant a variance arising out of any other ordinance that regulates land use or development. The ordinance(s) shall also provide consistent, clearly-defined standards to establish findings through the variance process as outlined in this section.

316.3 Special Use Permits. It shall be the duty of the Board of Adjustment to hear requests for Special Use Permits and grant said permits in accordance with the guidelines set forth by this Ordinance (See Article VIII).

316.4 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. 160D-1402(c)) 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.

317.1 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.

317.2 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;

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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 exists, and any contract to purchase or other relevant document; and
4. A fee set by the Town Board of Commissioners, with recommendations from the Board of Adjustment, which becomes nonrefundable when the Zoning Administrator gives notice to the Chair of the Board of Adjustment that the completed appeal or application has been filed; and any other materials reasonably required by the Chair of the Board of Adjustment.

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A. Time of Hearing. The Chairperson will set the date of hearing in accordance with an annual schedule published in January, maintained by the Clerk to the Board of Adjustment. This schedule will be made available to the Zoning Administrator in order that he/she may inform applicants of the current schedule. All cases shall be heard within 60 days.

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B. Notice of Hearing. The Board of Adjustment shall mail a notice of hearing (i) to the party whose appeal, application, or request is the subject of the hearing; (ii) to the owner of the property that is the subject of the hearing; (iii) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and (iv) to any other persons entitled to receive notice under this Ordinance. The notice of hearing must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the property that is the subject of the hearing or on an adjacent street right-of-way at least 10 days, but not more than 25 days, prior to the date of the hearing.

318 Decision of the Zoning Board of Adjustment. The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance of any provision of this Ordinance. A majority of the members is required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. The Board of Adjustment shall determine contested facts, make decisions within a reasonable time, and base quasi-judicial decisions on competent, material and substantial evidence in the record. Quasi-judicial decisions of the Board shall be in writing and shall reflect the Board's determination of contested facts and their application to standards found in this Ordinance. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or first-class mail to the applicant, the property owner, and any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

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319 Appeals from Decisions of the Zoning Board of Adjustment. Every quasi-judicial decision of the Board shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. 160D-1402. Any party with standing under N.C.G.S. 160D-

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1402 may appeal by filing a petition for review. A petition for review must be filed with the clerk of superior court by the later of thirty days after the decision is effective or after a written copy of the decision is given in accordance of Section 1205. When first-class mail is used to deliver the decision to a party, three days shall be added to the time to file the petition for review.

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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.

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**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.

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323. Procedure for Amendments. Requests to amend the Zoning Ordinance or the Official Zoning Map shall proceed in accordance with the following requirements:

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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 with the Zoning Administrator within at least thirty (30) days prior to the Planning and Zoning Commission's meeting at which the application is to be considered. An application requesting a change in the Official Zoning Map shall include a description of the property in question. Any communication purporting to be an application for an amendment shall be regarded as mere notice to seek relief until it is made in the required form.

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2) An application fee as set forth in the Town of Montreat Fee Schedule shall accompany each application and this fee shall be nonrefundable except in

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any case where the application is withdrawn prior to its consideration by the Planning and Zoning Commission. Provided, that no application fee shall be required for an application submitted by the Board of Commissioners, the Board of Adjustment or any other Town board or commission.

- 3) Once the Zoning Administrator has received the complete application and all other pertinent materials necessary for the consideration of the application, he/she shall forward the application and other materials to the Chair of the Planning and Zoning Commission who shall call for a meeting of the Planning and Zoning Commission to review said application within thirty (30) days of the date the completed application is received by the Chair. The regular meeting of the Planning and Zoning Commission may serve in the place of a called meeting if it falls within the time period set forth in this Subsection below.

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- C. Hearing by the Planning and Zoning Commission. The Zoning Administrator shall transmit copies of all papers and other data submitted by the applicant on behalf of the amendment request to the members of the Planning and Zoning Commission.

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- 1) The Planning and Zoning Commission shall review and prepare a report, including its official recommendation to accept or reject the proposed amendment. The Planning and Zoning Commission shall deliver its written report containing its official recommendation to the Board of Commissioners within ninety (90) days of the date of the meeting at which it considered an application. Failure of the Planning and Zoning Commission to submit recommendations within the ninety (90) day period shall constitute a favorable recommendation.
- 2) The Planning and Zoning Commission shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate.
- 3) All meetings of the Planning and Zoning Commission shall be open to the public. At a meeting, any party may appear in person, by agent, or by attorney.
- 4) 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.

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324. Public Hearing by the Board of Commissioners.

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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. ~~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.

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- 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 abutting that parcel of land shall be mailed a notice of a public hearing on the proposed change by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The person(s) mailing such notices shall certify to the Board of Commissioners that the notices were mailed in accordance with this section, and such certificate shall be deemed conclusive in the absence of fraud.
- 2) If the proposed change to the Official Zoning Map affects at least fifty (50) different properties, then the Town may elect to mail notices as provided above or may, as an alternative, elect to publish once a week for four successive weeks in a newspaper having general circulation in Montreat an advertisement of the public hearing that shows the boundaries of the area affected by the proposed change to the Official Zoning Map and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of N.C.G.S. §160D-601. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this ordinance. The person(s) mailing such notices shall certify to the Board of Commissioners that the notices were mailed in accordance with this section.

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and such certificate shall be deemed conclusive in the absence of fraud. In addition to the published notice, the Town shall post one or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed change in the Official Zoning Map.

- 3) At the public hearing, the Board of Commissioners may adopt the proposed change, reject the proposed change, refer the proposed change back to the Planning and Zoning Commission for further consideration or hearing.
- 4) 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.
- 5) 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.

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**ARTICLE IV - ESTABLISHMENT OF ZONING DISTRICTS**

400 Establishment of Districts. For the purposes of this Ordinance, the Town of Montreat is divided into Zoning Districts as follows:

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R-1: Low Density Residential District  
R-2: Medium Density Residential District  
R-3: Low Density Residential District  
I/R: Institutional/Residential District  
I: Institutional District  
WL: Woodlands District  
TCO: Town Center Overlay District  
RPO: Ridge Protection Overlay District  
CD: Conservation District  
PUD: Planned Unit Development 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 Board of Commissioners of a petition to establish a conditional zoning district:

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

401 District Boundaries. The boundaries of the above Zoning Districts are hereby established as shown on the Official Zoning Map of the Town of Montreat, North Carolina, which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

401.1 The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the Seal of the Town under the words: "Official Zoning Map, Town of Montreat, North Carolina," together with the date of the adoption of the Official Zoning Map.

401.2 If, in accordance with the provisions of this Ordinance and North Carolina General Statutes Chapter 160D, changes are made in District boundaries or other matters portrayed on the Official Zoning Map, such changes shall be caused to be entered on the Official Zoning Map by the Zoning Official Zoning Administrator within seven (7) days promptly after the amendment has been approved by the Board of Town Commissioners.

401.3 No changes of any nature shall be made on the Official Zoning Map or any matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be void and a violation of this Ordinance.



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401.4      The Official Zoning Map shall be located in the office of the Town of Montreat. It shall be the final authority as to the current zoning status of land, buildings, and other structures in the Town.

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403      Rules for Interpretation of Zoning District Boundaries. When uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map, the following rules shall apply:

403.1      Boundaries indicated as approximately following the center lines of streets, highways, alleys, or public utility easements shall be construed as following such center lines;

403.2      Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private;

403.3      Boundaries indicated as approximately following the Town Limits shall be construed as following such Town Limits;

403.4      Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

403.5      Boundaries indicated as approximately following the center lines of streams, rivers, channels, lakes, or other lines shall be construed as following the center line;

403.6      Boundaries indicated as approximately following topographic elevations shall be construed as following such elevations;

403.7      Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.

403.9      If the boundary location cannot be resolved according to any of the above criteria, the Board of Adjustment shall interpret the intent of the map as to the location of District boundaries.

**ARTICLE V - ZONING DISTRICT REGULATIONS**

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500.1 Permitted Uses Table - The following table establishes what principal uses will be allowed in a particular Zoning Districts within the Town of Montreat. The uses in this table will be permitted as indicated by the letter P and shall conform to all regulations of the applicable Zoning District. Uses which are not listed in the Table are not permitted in the Town of Montreat.

500.2 When shown with an S asterisk (\*), the use is permitted only as a "Conditional Special Use Permit" and will be approved in accordance with the provisions of Article VIII of this Ordinance. ~~When shown with a double asterisk (\*\*), the use is permitted only as an "Accessory Use."~~

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| USE CATEGORY  | PERMITTED USES |            |            |           |          |           |            |           |            |
|---|----------------|------------|------------|-----------|----------|-----------|------------|-----------|------------|
|   | <u>R-1</u>     | <u>R-2</u> | <u>R-3</u> | <u>IR</u> | <u>I</u> | <u>WL</u> | <u>RPO</u> | <u>CD</u> | <u>TCO</u> |
| <b><u>RESIDENTIAL</u></b>   |                |            |            |           |          |           |            |           |            |
| Single Unit Dwelling  | P              | P          | P          | P         |          |           |            |           | P          |
| Two Unit Dwelling (Duplex)  | P              | P          | P          | P         |          |           |            |           | S          |
| Multi-Unit Dwelling   |                |            |            | P         |          |           |            |           | S          |
|   |                |            |            |           |          |           |            |           |            |
| Dormitory   |                |            |            |           | P        |           |            |           | P          |
| Family Care Homes   | P              | P          | P          | P         |          |           |            |           | P          |
| Group Care Facility (Nursing Homes, Rest Homes, Congregate Care, and Similar Facilities.) |                |            |            | S         | P        |           |            |           |            |
| Manufactured Home, Class A  | S              | S          | S          |           |          |           |            |           |            |
| Manufactured Home, Class B  | S              | S          | S          |           |          |           |            |           |            |
| <b><u>ACCESSORY USES AND STRUCTURES</u></b>   |                |            |            |           |          |           |            |           |            |
| Accessory Buildings or Uses   | P              | P          | P          | P         | P        |           |            |           | P          |
| Accessory Dwelling Unit   | S              | S          | S          | S         |          |           |            |           | S          |
| Home Occupation   | P              | P          | P          | P         |          |           |            |           | P          |
| Studios   | S              | S          | S          | P         |          |           |            |           |            |
| Swimming Pools, Private   | P              | P          | P          | P         | P        |           |            |           | P          |
| <b><u>PUBLIC &amp; INSTITUTIONAL</u></b>  |                |            |            |           |          |           |            |           |            |

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| <u>Auditorium</u>                                    |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>College</u>                                       |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Conference Center</u>                             |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Churches</u>                                      |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Columbarium</u>                                   |          |          |          | <u>S</u> | <u>S</u> |          |  |          | <u>S</u> |
| <u>Community Facility</u>                            |          | <u>S</u> |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Educational Facility</u>                          |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Libraries, Public</u>                             |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Municipal Government Facilities</u>               |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Museums, Public</u>                               |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Parks or other Public Recreational Facilities</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> |  | <u>S</u> | <u>S</u> |
| <u>Public Works Maintenance Facility</u>             | <u>S</u> | <u>S</u> | <u>S</u> | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <b><u>Commercial</u></b>                             |          |          |          |          |          |          |  |          |          |
| <u>Bed and Breakfast</u>                             |          | <u>S</u> |          | <u>S</u> |          |          |  |          |          |
| <u>Boarding Houses</u>                               |          | <u>S</u> |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Bookstore</u>                                     |          |          |          | <u>P</u> | <u>P</u> |          |  |          |          |
| <u>Camps, Summer</u>                                 |          |          |          |          |          | <u>S</u> |  |          | <u>P</u> |
| <u>Campgrounds</u>                                   |          |          |          |          |          | <u>S</u> |  |          |          |
| <u>Convenience Store</u>                             |          |          |          | <u>S</u> | <u>S</u> |          |  |          |          |
| <u>Day Care, Home</u>                                | <u>S</u> | <u>S</u> |          |          |          |          |  |          |          |
| <u>Day Care Center</u>                               |          |          |          | <u>S</u> | <u>P</u> |          |  |          |          |
| <u>Drug Stores and Pharmacies</u>                    |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Eating Establishments (Excluding Drive-ins)</u>   |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>General Merchandise and Sales Retail</u>          |          |          |          | <u>P</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Hospitals</u>                                     |          |          |          | <u>S</u> | <u>S</u> |          |  |          | <u>S</u> |
| <u>Inn</u>   |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |
| <u>Lodge</u>   |          |          |          | <u>S</u> | <u>P</u> |          |  |          | <u>P</u> |

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| <u>Professional Offices, including but not limited to medical, dental, law, or real estate</u> |  |  |  | <u>S</u> | <u>P</u> |          |          |          | <u>P</u> |
| <u>Professional Services</u>   |  |  |  | <u>P</u> | <u>P</u> |          |          |          |          |
| <u>Riding Stables</u>  |  |  |  |          |          | <u>S</u> |          |          |          |
| <u>Swimming Pools, Public</u>  |  |  |  | <u>S</u> | <u>S</u> |          |          |          | <u>S</u> |
| <u>Theaters, Privately Operated</u>  |  |  |  |          | <u>S</u> |          |          |          | <u>S</u> |
| <u>Theaters, Public Outdoor</u>  |  |  |  |          | <u>S</u> |          |          |          | <u>S</u> |
| <u>Other</u>   |  |  |  |          |          |          |          |          |          |
| <u>Agriculture excluding logging and timber harvest</u>  |  |  |  |          |          | <u>P</u> | <u>P</u> | <u>S</u> |          |
| <u>Telecommunication Tower</u>   |  |  |  |          | <u>S</u> |          |          |          | <u>S</u> |

501 R-1 Residential District.

501.1 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 the area is ~~excluded~~ prohibited.

501.2 Permitted Uses. See Section 500.

501.3 Special Uses. See Section 500 and Article VIII.

501.4 Minimum Lot Area.

501.41 Ten thousand (10,000) square feet for all Single-family Dwellings.

501.42 Fifteen thousand (15,000) square feet for Two-family Dwellings.

501.43 Fifteen thousand (15,000) square feet for other uses.

501.5 Minimum Lot Width. Seventy-five feet (75').

501.6 Minimum Lot Depth. One hundred feet (100').

501.5 Minimum Front Yard. Thirty feet (30').

501.8 Minimum Side Yard.

501.81 Single-family and Two-family Dwelling Units: Fifteen feet (15')

501.82 All Other Uses: Twenty-five feet (25').

501.82 Lots abutting Woodland District: 10 feet (10')

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501.9 Minimum Rear Yard. Twenty percent (20%) of the mean lot depth provided that rear yards on lots used for dwelling purposes need not exceed thirty five feet (35').

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501.91 Lots abutting Woodland District: 10 feet (10')

501.10 Maximum Building Height. Thirty-five feet (35').

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

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501.12 Accessory Buildings. See Section 612 and 500.

501.13 Signs. See Article X.

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502 R-2 Residential District.

502.1 Purpose. This Zoning District is established to protect areas in which the principal use of the land is for medium density, single-family, multi-family and group dwellings as well as for the related recreational, religious, and educational facilities normally required to provide for an orderly, 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 prohibited.

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502.2 Permitted Uses. See Section 500.

502.3 Special Uses. See Section 500 and Article VIII.

502.4 Minimum Lot Area.

502.41 Eight thousand (8,000) square feet for all Single-family Dwellings.

502.42 Twelve thousand (12,000) square feet for all Two-family Dwellings.

502.43 Twelve thousand (12,000) square feet for all other uses.

502.5 Minimum Lot Width. Sixty feet (60').

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502.6 Minimum Lot Depth: One hundred feet (100').

502.5 Minimum Front Yard. Thirty feet (30').

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502.8 Minimum Side Yard.

502.81 Single-family Dwellings: Ten feet (10').

502.82 All Other Uses: Twenty feet (20').

502.83 Lots abutting Woodland District: Ten feet (10').

502.9 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').

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502.91 Lots abutting Woodland District: 10 feet (10')

502.10 Maximum Building Height. Thirty-five feet (35').

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

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502.12 Accessory Buildings. See Section 612 and 500.

502.13 Signs. See Article X.

503 R-3 Residential District.

503.1 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.

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503.2 Permitted Uses. See Section 500.

503.3 Special Uses. See Section 500 and Article VIII.

503.4 Minimum Lot Area.

503.41 Twenty thousand (20,000) square feet for all Single-family Dwellings.

503.42 Thirty thousand (30,000) square feet for Two-family Dwellings.

503.43 Thirty thousand (30,000) square feet for all other uses.

503.5 Minimum Lot Width. Seventy-five feet (75').

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503.6 Minimum Lot Depth. One hundred feet (100').

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503.5 Minimum Front Yard. Thirty feet (30').

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503.8 Minimum Side Yard.

503.81 Single-family and Two-family Dwelling units: Fifteen (15) feet.

503.82 All Other Uses: Twenty-five (25) feet.

503.83 Lots abutting Woodland District: 10 feet (10')

503.9 Minimum Rear Yard. Twenty percent of the mean lot depth provided that rear yards on lots used for dwelling purposes need not exceed thirty-five feet.

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503.91 Lots abutting Woodland District: 10 feet (10')

503.10 Maximum Building Height. Thirty-five feet (35').

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

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503.12 Accessory Buildings. See Section 612 and 500.

503.13 Signs. See Article X.

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504 I/R Institutional/Residential District.

504.1 Purpose. The purpose of the Institutional/Residential Zoning District is to provide for a zone of transition between purely residential and purely institutional Districts or to serve as a residential District to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety, and to provide for protected property values in areas which are predominately residential in character.

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504.2 Permitted Uses. See Section 500.

504.3 Special Uses. See Section 500 and Article VIII.

504.4 Minimum Lot Area.

504.41 Single-family Dwellings. Six thousand (6,000) square feet.

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504.42 Two-family Dwellings. Ten thousand (10,000) square feet.

504.43 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).

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504.44 Ten thousand (10,000) square feet for all other uses.

504.5 Minimum Lot Width.

504.51 Single-family Dwellings. Sixty-five feet (65').

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504.52 Two-family Dwellings. Eighty feet (80').

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504.53 Multi-family Dwellings. One Hundred feet (100').

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504.54 Other uses. One Hundred feet (100') at front Building line.

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

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

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504.8 Minimum Side Yard.

504.81 Interior Side. Twelve feet (12').

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504.82 Street side at corner lot. Seventeen and one-half feet (15.5').

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

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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.

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

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

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504.121 Like or similar uses abutting each other in different Districts: None.

504.122 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.

504.13 Signs. See Article X.

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505 I – Institutional.

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

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505.2 Permitted Uses. See Section 500 and Article V, Definitions, Educational Facility.

505.3 Special Uses. See Section 500 and Article VIII.

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

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505.5 Minimum Lot Width. Seventy-five feet (75').

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505.6 Minimum Lot Depth. One hundred feet (100').

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505.5 Yard Requirements.

505.51 Adjacent lots within the Institutional District shall have no front, side, or rear yard requirements except that a twenty five foot (25') Building setback shall be required from the right-of-way lines of any adjacent streets.

505.52 Lots within the Institutional District and abutting a different Zoning District shall be required to provide a twenty five foot (25') side, rear, and/or front yard on the perimeter facing the different Zoning District.

505.8 Maximum Building Height. Sixty feet (60'). All proposed Buildings, other than single family, must be approved by the authority having jurisdiction for fire code enforcement. Structures over 35 feet will require special fire protection systems.

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

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

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505.101 Like or similar uses abutting each other in different Districts: None.



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505.102 Unlike or dissimilar uses abutting each other in same or different Districts: Six feet (6') high closed fence or evergreen vegetation of sufficient density to serve the purpose of a solid fence.

505.11 Signs. See Article X.

506 WL - Woodland District. That area outside the high and low pressure water service areas of the Town of Montreat that is indicated as Woodland District on the Official Zoning Map of the Town.

506.1 Purpose. This Zoning District is established to provide for agricultural uses including, but not limited to, grazing and fishing, but because of extremes in topography and soils, is unsuitable for residential, commercial, institutional or related development.

506.2 Permitted Uses. Agricultural uses and enterprises. (See Section 500).

506.3 Special Uses. See Section 500.

505 RPO - Ridge Protection Overlay District. That area extending 500 feet on all sides of the summit of certain ridges in the Town 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 as well as the provisions of the North Carolina Mountain Ridge Protection Act (N.C. G.S. § 113A). In case of conflict between the requirements of this section and any other law or regulation the more stringent provision shall apply.

505.1 Purpose. This Zoning District is established to protect sensitive woodlands on the ridge tops in and around the Flat Creek Basin which contains the Town of Montreat. Special protection is needed in these areas because of their high elevation, steep slopes and susceptibility to erosion that may adversely affect water supplies and aquatic life in the Town. Special protection is also needed to protect and preserve vistas in the Flat 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.

505.2 Permitted Uses. Agricultural uses and enterprises except logging and timber harvest. (See Section 500.)

505.3 Special Uses. None allowed.

508 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.

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508.1 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.

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508.2 Permitted Uses. See Section 500.

508.3 Special Uses. See Section 500.

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

509 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.

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509.1 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.

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509.2 Signs. See Article X, Section 1004.9.

510 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.

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 otherwise applicable setback and other site specific development standards and requirements of the applicable general use district.

510.1 Purpose. Conditional Zoning Districts are primarily intended to allow for the zoning and development of property in accordance with general use zoning district standards with

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additional 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 neighboring properties. Zoning petitions to establish a conditional zoning district will be processed in accordance with the provisions of this zoning ordinance for zoning amendments as well as this section. A conditional zoning district classification will be considered only if the application is made by the owner of the property or his/her authorized agent.

510.2. Uses within District. Within a conditional zoning district, only those uses listed as permitted uses in the corresponding general zoning district shall be permitted. Individual conditions and site specific standards are limited to those needed to bring a project into compliance with town ordinances and adopted plans. The applicant shall propose development standards to mitigate the impacts reasonably expected to be generated, especially with regard to property adjacent to the conditional zoning district. Special uses shall require a special use permit as required for the applicable general use zoning district.

510.3 Conditions.

(A) In a conditional zoning district, conditions may specify the uses proposed for the district; the location on the property of the proposed use; the number of dwelling units or other structures; the location and extent of supporting facilities such as parking areas, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of right-of-way and other areas to be dedicated for public purposes; the alteration of streets to mitigate traffic and environmental impacts; use limitations; and other matters the applicant proposes.

(B) In considering a reclassification of property to a conditional zoning district, the Town Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater, the provision of open space, and other matters that the Town Board of Commissioners may find appropriate or the applicant may propose.

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(C) Such conditions to approval of the rezoning may include dedication to the Town or State or a recognized legal entity, as appropriate, of any rights-of-way or easements for roads, water, and sewer or other public utilities necessary to serve 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, including 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, 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 includes the number of units and an outline of area where the structure will be located and appropriate setbacks. For nonresidential uses, this includes the approximate square footage of all structures and an outline of the area where the structures will be located.

(F) The Planning and Zoning Commission and/or Town Board of Commissioners may request additional information as they deem necessary. This information may include:

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

(2) Existing and proposed topography at foot contour intervals or less.

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(3) Generalized information on the number, height, and size or, in especially critical situations, the location of structures.

(4) Proposed number and location of detached signs

(5) Approximate completion time of the project and proposed phasing, if any.

(6) Transportation plan with provisions for internal vehicular, transit, bicycle, and pedestrian circulation and parking.

(7) Conditions proposed to be incorporated in the conditional zoning district.

(G) In approving a conditional zoning district, the Town Board of Commissioners may, impose more restrictive requirements than would otherwise be required by this ordinance and those in the application, as deemed necessary to ensure that the purposes and intent of this ordinance are met.

(I) Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this ordinance. The Zoning Administrator may order the removal of any such condition.

510.4 Community Meeting. With respect to the Institutional/ Residential (I/R) and the Institutional (I) districts, the applicant is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. Notice of the meeting shall be provided to owners of property within 250' of subject property, as listed with the Buncombe County Tax Department. Notice may be sent to additional properties by the applicant. At a minimum, the notice shall be sent by standard 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 as 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.

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510.5 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. 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, restrictions and regulations provided for in the corresponding general use zoning district, together with such changes, standards and conditions imposed by the Town Board of Commissioners.

(F) If an application is approved, only those uses and structure indicated in the approved application and exhibit map/schematic plan shall be allowed on the subject property. A change of location of any structures may be authorized pursuant to applicable provisions of the ordinance.

(G) Following the approval of a rezoning application for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation.

(H) Any approved conditional zoning district shall have vested rights.

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510.6 Alterations to Approval.

(A) Except as provided herein, changes to an approved conditional zoning district or to the conditions attached to the approval shall be treated the same as a new application for a conditional zoning district and shall be processed in accordance with the original procedures.

(B) The Planning and Zoning Commission shall have the authority to approve an administrative change to an approved conditional zoning district application. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved plan or its conditions and that the change does not have a significant impact upon abutting properties. Changes that increase the density of nonresidential development up to 10% of the approved building square footage, but not more than 5,000 square feet, may be considered. For residential development, increases in density are not allowed as an administrative change.

(C) The Planning and Zoning Commission shall always have the discretion to decline to exercise this delegated authority if it believes a requested change should be deemed a rezoning application requiring a public hearing and Town Board of Commissioners approval under the circumstances. If the Planning and Zoning Commission declines to exercise this authority, then the applicant may only file a rezoning application in accordance with the applicable provisions of this Ordinance.

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511. Lot Requirements Summary Table.

| <u>Zoning District and Use</u>   | <u>Minimum Lot Dimensions</u> |                     |                     | <u>Minimum Yard/Setback</u>  |                        |                    |
|--|-------------------------------|---------------------|---------------------|--|------------------------|--------------------|
|  | <u>Size (sq. ft.)</u>         | <u>Width (feet)</u> | <u>Depth (feet)</u> | <u>Front (feet)</u>  | <u>Side (feet)</u>     | <u>Rear (feet)</u> |
| <b><u>R-1</u></b>  |                               |                     |                     |  |                        |                    |
| Single Family, Group   | <u>10,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>15</u>              | <u>**</u>          |
| Two Family   | <u>15,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>15</u>              | <u>**</u>          |
| Other uses   | <u>15,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>25</u>              | <u>**</u>          |
|  |                               |                     |                     |  |                        |                    |
| <b><u>R-2</u></b>  |                               |                     |                     |  |                        |                    |
| Single Family, Group   | <u>8,000</u>                  | <u>60</u>           | <u>100</u>          | <u>30</u>  | <u>10</u>              | <u>**</u>          |
| Two Family   | <u>12,000</u>                 | <u>60</u>           | <u>100</u>          | <u>30</u>  | <u>10</u>              | <u>**</u>          |
| Multifamily*   | <u>20,000</u>                 | <u>60</u>           | <u>100</u>          | <u>30</u>  | <u>20</u>              | <u>**</u>          |
| Other uses   | <u>12,000</u>                 | <u>60</u>           | <u>100</u>          | <u>30</u>  | <u>20</u>              | <u>**</u>          |
| Side and rear yard setbacks for lots in R-1, R-2, and R-3 District abutting Woodland District: 10 feet (10') |                               |                     |                     |  |                        |                    |
| <b><u>R-3 (septic)</u></b>   |                               |                     |                     |  |                        |                    |
| Single Family  | <u>20,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>15</u>              | <u>**</u>          |
| Two Family   | <u>30,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>15</u>              | <u>**</u>          |
| Other uses   | <u>30,000</u>                 | <u>55</u>           | <u>100</u>          | <u>30</u>  | <u>25</u>              | <u>**</u>          |
|  |                               |                     |                     |  |                        |                    |
| <b><u>I/R</u></b>  |                               |                     |                     |  |                        |                    |
| Single Family  | <u>6,000</u>                  | <u>65</u>           | <u>100</u>          | <u>25</u>  | <u>12/15.5</u>         | <u>25</u>          |
| Two Family   | <u>10,000</u>                 | <u>80</u>           | <u>100</u>          | <u>25</u>  | <u>12/15.5</u>         | <u>25</u>          |
| Multifamily***   | <u>15,000</u>                 | <u>100</u>          | <u>100</u>          | <u>25</u>  | <u>12/15.5</u>         | <u>25</u>          |
| Other uses   | <u>10,000</u>                 | <u>100</u>          | <u>100</u>          | <u>25</u>  | <u>12/15.5</u>         | <u>25</u>          |
|  |                               |                     |                     |  | <u>interior/corner</u> |                    |
|  |                               |                     |                     |  |                        |                    |
| <b><u>I</u></b>  |                               |                     |                     |  |                        |                    |
| All permitted uses   | <u>5,500</u>                  | <u>55</u>           | <u>100</u>          | <u>N/A - 25' from street right-of-way and when adjacent to a different Zoning District</u> |                        |                    |

\* 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.

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512 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

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Plan are the zoning regulations, standards, and land uses for a PUD in the PUD district. The Official Zoning Map shall identify the area covered by each PUD district.

- (1) All uses that are set out in the approved PUD Master Plan shall be treated as a permitted use within the district.
- (2) Except as otherwise provided by the adopted PUD Master Plan, property within an approved PUD shall be subject to all applicable regulations, subdivision plan approvals, site plan approvals, and other permits and approvals required by Town ordinances.
- (3) There is no minimum acreage required. However, the size of the PUD shall be evaluated by the Planning and Zoning Commission as warrants the location of the specific proposal.
- (4) The PUD Master Plan shall identify the total number of residential units and the maximum square footage for non-residential uses. The form for presenting these quantities shall be clearly presented and easy to track. If the measure used includes density, gross density is the applicable standard.

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(5) Development standards established by the approved PUD Master Plan shall be the applicable development standards within the PUD. Such standards shall include, but are not limited to, building height, building separations, building setbacks, parking requirements, lot size, yard, buffer and landscape requirements or other dimensional standards.

(6) Development of property within a PUD is subject to all applicable Town regulations such as: subdivision plan approvals, site plan approvals, and other permits and approvals required by Town ordinances. The installation of transportation infrastructure shall be required in developing areas of the PUD as needed to serve that portions of the PUD.

D. Procedure

- (1) A PUD zoning district shall be established through the process for rezoning property pursuant to the procedures for amendments as set forth in Article -- of this ordinance.
- (2) A pre-application meeting with the appropriate Town staff is required prior to formal submission of the application.

E. Requirements

- (1) Submittal of an application to rezone property to a PUD shall include submission of a Planned Unit Development District Master Plan (PUD Master Plan). The PUD and the

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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. the location of known historic structures or sites within the PUD;
- e. a recreation and open space plan(s) that includes the locations and standards for open space and recreation areas within the PUD;
- f. a boundary buffer plan showing transition treatments between the proposed PUD and adjacent properties;
- g. a plan for development phasing within the PUD.

(3) In addition the applicant may choose to include other items or plans. The elements of the PUD Master Plan may be presented in various forms and can include a combination

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of text and illustrations. The form(s) chosen shall clearly illustrate the elements of the PUD Master Plan being presented.

(4) The Town Administrator or Town Council may require a Traffic Impact Analysis (TIA) to be conducted by the applicant and submitted as part of the rezoning application.

(5) A mix of land uses and/or residential character types may be included in the PUD zoning district. The PUD Master Plan shall identify how uses will be mixed within the PUD. Uses may vary for and within areas or phases of the PUD and it is acknowledged that the mix of uses may need to change over time.

F. Recreation Areas and Open Space

(1) General Requirement

The location and proposed amount of open space and recreation space shall be identified in the PUD Master Plan. The open space within a PUD may contain areas for both active and passive uses. The PUD Master Plan shall consider adopted Town plans for greenways, recreation space, and open space, but may propose revisions, alternatives, and/or clarifications to this plan.

(2) Conservation and/or Preservation Areas

The PUD Master Plan shall provide for utilization of portions of the PUD that are subject to conservation easements or otherwise set aside for preservation, open space and/or recreation.

(3) Management of Recreation Areas and Open Space

Because these areas may be placed under the control of a public entity such as the Town, or a private entity, such as a property owners association or the Montreat Conference Center, the PUD Master Plan shall identify which area are to be public and which are to be private. The PUD Master Plan shall include a management plan for those areas that will be privately controlled addressing long-term maintenance responsibility for these areas.

G. Landscaping and Buffers

(1) Compliance with General Landscaping Requirements

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

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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.

**ARTICLE VI – DEVELOPMENT PROVISIONS**

600 Use. No Building, Structure or land shall hereafter be used or occupied and no Building or Structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the Zoning District in which it is located.

600.1 No part of a yard, off-street parking or loading space, or other open space required in connection with any Building for the purpose of complying with this Ordinance shall be used and included as part of a yard, open space, or off-street parking or loading space similarly required for any other Building.

600.2 Rights-of-way or access easements shall not be considered a part of a lot or open space, or front, side, or rear yard for the purpose of meeting yard requirements.

601 Lot Reduction Prohibited. No yard or lot existing at the time of the passage of this Ordinance shall be reduced in dimension or area below the minimum requirement set

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herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set by this Ordinance.

602 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 does not have legal and physical vehicular access to a dedicated and accepted public Street or to a platted roadway connected to a public Street.

For any lot that does not abut a public Street or, in the case of the Extraterritorial Jurisdiction for any lot that does not abut a public Street or platted roadway, no Building, Structure or Use of land shall be established on such lot unless it has a legal easement connecting such lot with a public Street, which easement must:

1. Have a minimum width of twelve feet (12');
2. Be physically passable for vehicular traffic; and
3. Be an easement of record and appurtenant to the lot for which it provides access.

If the Street or platted roadway providing access to a proposed development does not meet the Town street standards for public streets, the developer shall make the necessary improvements to bring the street or road up to such Town standards.

603 Minimum Lot Area. The minimum lot area shall be as specified in Article V for each Zoning District. In areas not served by a public or community sewer system, the minimum lot area shall be determined by the Buncombe County Health Department. This minimum lot area shall be that necessary for safe on-site waste disposal system, but in no case, shall the lot be smaller than the required area for the Zoning District in which it is located.

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604 Height and Density. No Structure shall hereafter be erected or altered so as to exceed the density and height regulations of this Ordinance for the District in which it is located.

605 One Principal Building Per Lot. Every Building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one (1) Principal Building and its Accessory Buildings on the lot.

606 Accessory Buildings and Uses.

606.1 General Requirements.

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- 1) Accessory buildings shall not be used as a dwelling unit.
- 2) In residential zoning districts, no more than two (2) accessory buildings or uses shall be permitted per lot.
- 3) Accessory buildings larger than six hundred (600) square feet including entrance and/or outside covered areas and/or exceeding ten (10) feet in

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height at eave line shall be permitted by Special ~~Conditional~~ Use permit only.

- 4) Accessory buildings or uses must meet the minimum setbacks required by the respective zoning district. Garages shall be located only in the side or rear yards, unless as permitted in Section 606.2, and must meet the minimum setbacks required by the respective zoning district except under the provisions found in Section 612.2.

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- 5) Accessory buildings with any dimension greater than twelve feet (12') must meet the provisions of current NC State Residential Building Code.

606.2 Garages in Front Yard. A residential property owner may apply for a Special Use Permit to build a garage within the front yard setback subject to meeting all the following conditions:

- 1) The Zoning Administrator determines this will reduce damage to the natural topography, trees and natural green space, or where the topography will create a hardship that would result in significant damage to the topography, trees and plant life without such relief;
- 2) The materials used, meet or exceed the quality and appearance of the principal residence.
- 3) The garage must be enclosed by an operable garage door to be maintained in good working order, excluding carports.
- 4) The garage doors shall be kept closed when the house is unoccupied for more than one day; and
- 5) The property owner agrees to maintain the garage and its appearance to reasonably remain in the condition it is in when completed and approved by the Building Inspector. The Zoning Administrator shall determine when this provision has been violated.

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606.3 Portable Storage Container. In addition to meeting the general requirements found in Section 606.1, portable storage containers shall meet the following conditions:

- 1) Portable storage containers shall not be located or placed within any easements or street rights-of-way, without the expressed permission and authorization of the Town.
- 2) Portable storage containers are to be used for storage incidental to the principal use on the same lot. Storage containers shall not be used for retail sales or any other principal use.
- 3) A portable storage container shall be allowed on a property for a continuous period of no more than one hundred and eighty (180) days per twelve-month period. Exceptions to this time limit may be made by the Zoning Administrator to compensate for an act of God.

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- 4) In Residential Districts (R-1, R-2, R-3), portable storage containers shall not be more than eight (8) feet in width and not more than twenty-four (24) feet in length.
- 5) For an active construction project in the Institutional/Residential (IR) and Institutional (I) Districts, portable storage containers shall not be more than ten (10) feet in width and not more than forty (40) feet in length and shall be allowed on a property for a continuous period of no more than two hundred and ten (210) days per twelve-month period.

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

- 1) The proposed accessibility improvements shall provide “reasonable accommodations” to avoid discrimination against individuals with disabilities. The intrusion upon the setback will not exceed that which is practically required as determined by the Zoning Administrator.
- 2) Expansion of, or addition to, decks and other appurtenant structures beyond what is deemed necessary by the Zoning Administrator to provide reasonable accommodation for accessibility shall not be permitted.
- 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 Administrator~~ and Town Administrator prior to application for the associated construction permits

605. 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. 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.

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606. Double Frontage Lots. On lots having frontage on two streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this Ordinance. On lots having frontage on more than two streets, the minimum front yard shall be provided in accordance with the regulations set forth in this Ordinance on at least two of the street frontages. The minimum front yard on the other frontage or frontages may be reduced along the other streets in accordance with the side yard requirements of the Zoning District.

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607 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.

608 Nuisances and Hazards at Building Sites. The holder of any Building Permit issued by the Town Building Inspector shall be responsible for maintaining the corresponding construction site free of rubbish, hazards, and unsightly conditions from the beginning of construction until occupancy. The Zoning Administrator (or his or her designee) or the Building Inspector shall determine if a hazardous or unsightly condition exists and notify the holder of the Building Permit of a potential violation of this ordinance. The Town shall begin enforcement action if the situation is not corrected to the satisfaction of the Zoning Administrator within seven (7) days of notification. (For General Nuisances refer to the Montreat Code of General Ordinances, Chapter I, Article I.)

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609 Manufactured Homes.

609.1 Purpose. To establish review guidelines for manufactured homes in order to insure that such homes will meet certain specifications and will provide pleasant living conditions while protecting adjacent property.

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609.2 Location. Any manufactured home established as a residence within the Town of Montreat after the adoption of this Ordinance may be located on a lot in the R-1 Residential Zoning District. Manufactured homes used as residences on individual lots shall be considered principal

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uses for the purposes of this Ordinance and shall be subject to the criteria set forth in Section 623.4-5 below.

609.3 Exemptions. Manufactured homes on lots may be exempt from the criteria in Section 623.4-5 providing that a valid Temporary Manufactured Home Placement permit is obtained from the Zoning Administrator. Each permit, when granted, shall be for one (1) calendar month, after which said permit can be renewed provided the below criteria are met.

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609.31 When fire, flood, or other natural catastrophe makes an existing single family dwelling uninhabitable, the Zoning Administrator shall allow a manufactured home to be used on the same lot as a temporary residence for a period not to exceed six (6) months.

609.32 During the active construction period of any one-family dwelling, the Zoning Administrator shall allow a manufactured home on the same lot by the owner of the lot for a period not to exceed twelve (12) months or the active construction period, whichever is less.

609.33 During the active construction period of a construction project, the Zoning Administrator shall permit a manufactured home on the same lot for a period not to exceed twenty four (24) months or the active construction period, whichever is less.

609.34 During the active promotion of any residential subdivision the Zoning Administrator shall permit a manufactured home within the development to be used solely for the purpose of a temporary sales office for a period of up to twelve (12) months. The manufactured home may not serve as a residence.

609.4 Classes of Manufactured Homes. For the purposes of this Ordinance, manufactured homes shall be classed as follows: A manufactured home must meet all of the restrictions outlined under a particular class before it may be classified either A, B, or C.

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609.41 Class A. This class of manufactured home shall be allowed as a use by right in the R-1 Zoning District. In order for a manufactured home to be placed within this class, it must adhere to the following standards:

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- 1) The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;
- 2) The unit must comply with the appearance criteria set forth in Section 623.5; and
- 3) The unit must not exceed a length to width ratio of 3:1.

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609.42 Class B.      This class of manufactured home shall be allowed as a Special conditional use in the R-1 Zoning District. In order for a manufactured home to be placed within this class, it must adhere to the following standards:

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1)      The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;

2)      The unit must comply with the appearance criteria set forth in Section 623.5; and

3)      The unit must not exceed a length to width ratio of 4:1.

609.43 Class C.      This class shall not be allowed in the Town of Montreat, except for use by a temporary business as outlined in Section 623.34 above, and shall include all manufactured homes which cannot be classified as either Class A or Class B manufactured home.

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609.5 Appearance Criteria. Class A and Class B manufactured homes must meet the following criteria. Before issuing a Certificate of Occupancy for a Class A or a Class B manufactured home, the Zoning Administrator must certify the home meets the following appearance criteria.

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609.51 Chassis Removal.      The home shall have wheels, axles, transporting lights and towing apparatus removed.

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609.52 Foundation.      A continuous primarily masonry foundation, unpierced except for required ventilation and access shall be installed under all elements of the Structure. Footings for walls shall be below the frost line. The ground surface below the foundation shall be protected with a poly vapor barrier. Installation shall include a positive surface water drainage away from the home.

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609.53 Roofing.      The home shall have a pitched roof and the roofing material must be compatible with residential construction within the area in which it is located.

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609.54 Exterior Finish.      The exterior materials shall be of a color, material, and scale comparable with those existing in residential construction within the area which it is located and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint. Siding, trim, and features should be compatible with those existing in residential construction within the area in which it is located.

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611 Regulations for Cut and Fill Slopes. Cut and fill slopes shall not exceed a 1:1 cut and 1.5:1 (horizontal distance: vertical distance). However, if stable exposed rock is the intended result, the cut and/or fill slope may be increased with approval of the Zoning Administrator and supporting recommendation from a North Carolina-registered professional engineer

613 Drainage. A culvert of sufficient capacity or other means of drainage to control storm water runoff is required for each driveway or roadway connected to any public or private road in the Town of Montreat. Consultation is required with the Public Works Director regarding the type, material, placement, and method of installation of each such drainage facility. Written plans for drainage will be submitted to the Zoning Administrator for zoning compliance approval.

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613.1 Sedimentation Control. All land disturbing activity is to be planned and conducted so as to prevent off-site sedimentation and storm water runoff damage.

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614 Agricultural Uses. Agricultural enterprises are allowed in certain Districts in the Town (see Section 700). Such uses are allowed with the understanding by the Town that the land will be managed in such a way as to generate no off-site adverse effects such as sedimentation or other water pollution. As a general rule, grazing a horse on less than two acres is likely to produce such adverse effects. The Town Zoning Administrator is authorized to investigate reports of adverse off-site impacts of any land use and to report such activities to appropriate regulatory agencies.

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615 Parking and Storage of Travel Trailers, Campers and Recreational Vehicles.

615.1 Parking on Private Property. No travel trailer, camper or recreational vehicle shall be used as a residence in the Town.

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1) Exceptions to the requirements of this section shall be made for any visitor of a resident of the Town when the visitor parks the travel trailer, camper, or recreational vehicle on property of the Town resident, with the permission of the resident and for a period not to exceed seven (7) days per year. No more than one such travel trailer, camper, or recreational vehicle occupied by visitors shall be allowed to park on any lot in the Town.

2) The provisions of this section shall not be interpreted to prevent the storage or occasional use of a vacant travel trailer, camper, or recreational vehicle at a residence in the Town by the owner of that residence. Occasional use shall mean not more than seven days in succession nor more than four times in a twelve month period.

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3) No travel trailer, camper, or recreational vehicle shall be offered for rent or lease on a short or long term basis in the Town.

615.2 Parking on Public Property Prohibited. No person shall park a travel trailer, camper, or recreational vehicle for the purpose of overnight habitation on any

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public property in the Town including but not limited to public streets, street rights-of-way, walkways, sidewalks, parking lots, and any other public area.

616 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.

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617 Driveway Connections. To the greatest extent practicable, and unless otherwise approved by the Town, driveway connections to public streets shall be made within the adjacent frontage area described by lines extending perpendicular from the street side to the nearest property corners. If existing conditions or other factors, including but not limited to excessively steep gradient or stormwater control considerations pose inordinate difficulty for, or preclude, a driveway connection to the public street solely within the frontage area described above, application shall be made to the Board of Adjustment seeking a variance from the provisions stated herein. The variance requirement shall be waived if an easement is granted by the neighboring landowners(s) permitting driveway access through the grantor's lot.

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620 Fences.

**Need to revisit this discussion.**

620.1 No fence shall be located, constructed or maintained in such a way as to obstruct the view of motorists or pedestrians using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.

620.2 Electrically charged fences and other sharp metal or glass fences are prohibited.

620.3 Barbed wire fences are allowed only for special security or safety needs (such as high towers, electrical high-voltage site, hazardous equipment, etc.) The barbed wire will be higher than six (6) feet, constructed of no more than three (3) strands and will project over the projected property on the interior side. Otherwise, barbed wire fences are prohibited.

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621 Standards for Individual Uses

**PLACE HOLDER**

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623 Regulations for Special Use Permits

A. The development standards listed herein are additional to other requirements in this Ordinance. These development standards are use- specific and apply to those uses requiring approval of a Special Use (designated with a 'S' in the Table of Permitted Uses, Section 5.2). Such uses shall be subject to these standards as well as any additional standards or conditions required by the Special Use Permit.

**ARTICLE --: SPECIAL USES PERMIT**

**SECTION 100-1 - OBJECTIVES AND PURPOSE**

----.1 Objectives and Purpose: Permitted Special Uses add flexibility to the Zoning Ordinance. Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, uses of property, which would otherwise be undesirable in certain districts, can be developed to minimize any bad harmful effects they might have on surrounding properties.

----.2 The uses for which Special Use Permits are required are listed in the Table of Permitted Uses.

**SECTION ----.2 - PROCEDURES FOR SPECIAL USE PERMITS  
APPROVED BY THE BOARD OF ADJUSTMENT**

2.1 A Special Use Permit may be issued by the Zoning Administrator after approval by the Board of Adjustment for the uses as designated in the Table of Permitted Uses, -----. All applications for Special Use Permits shall be submitted in accordance with application requirements. Once the application has been determined complete, the Zoning Administrator shall schedule a Public Hearing.

The Board of Adjustment shall hold a public hearing prior to rendering a decision on the Special Use Permit, and if approved, shall include approval of such plans as may be required. In approving the permit, the Board of Adjustment shall find:

(A) That the use will not materially harm the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;

(B) That the use meets all the required and applicable development standards and conditions;

(C) That the use will not substantially injure the value of adjoining or abutting property; and.

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(D) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located,

(E) and be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat.

**--.2 Public Hearing**

Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to other persons as may be required or necessary. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(A) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties or any portion of properties within 250 feet of the property involved in the permit request.

(B) The Zoning Administrator shall also post a notice sign(s), at least one calendar day week (with exception of holidays) prior to the public hearing, on the property affected and/or in the vicinity stating the information included (A) above.

(C) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the Board of Adjustment's intention that no failure to comply with any of the notice provisions (except those set forth in subsection 110-2.2-A) shall render any permit request invalid.

(D) At the conclusion of the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

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(E) The Board of Adjustment is not required to take final action on a Permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

(F) Subject to subsection -----, the Board of Adjustment, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.

(G) Even if the Board of Adjustments finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially harm the public health or safety; or
- (2) Will substantially injure the value of adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land development plan or other plans officially adopted by the Town Council.

(I) The burden of presenting a complete application to the Board of Adjustments shall be upon the applicant. However, unless the Board informs the applicant at the hearing in what way the applicant is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete. Once a completed application has been submitted, which shall include a presentation by the applicant, if competent, material and substantial evidence that the applicant has complied with the requirements of the ordinance, made a "prima facie" (based on immediate impression) case with respect to use, specific findings, and is entitled to a permit, the burden of



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presenting competent, material and substantial evidence "contra" to the application rests with those parties opposed to the application.

(J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subsection (H) rests on the party or parties urging that the requested permit should be denied.

---2.3 In approving the Special Use Permit, the Board of Adjustment may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious and with the spirit and intent of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the Special Use Permit is granted and also onto the Special Use Permit and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the Special Use Permit, the heirs, successors and assigns. In order to ensure that such conditions and requirements of each Special Use Permit will be fulfilled, the petitioner for the Special Use Permit may be required to provide physical improvements required as a basis for the issuance of the Special Use Permit.

-----2.4 While considering Said Application, the Board of Adjustment may request technical reports from experts and analysis from government agencies.

-----2.5 If the Board of Adjustment denies the Special Use Permit, the reasons therefore shall be entered in the minutes of the meeting at which the permit is denied.

-----2.6 In addition to the specific conditions required and whatever additional conditions the Board of Adjustment deems to be reasonable and appropriate, Special Uses shall comply with the height, yard, area and parking regulations of the zone in which they are located.

-----2.7 In the event of failure to comply with the plans approved by the Board of Adjustment, or with any conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificate of Occupancy/Compliance under the Special Use Permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a use as permitted by the zone in which the property is located.

-----2.8 Where plans are required to be submitted and approved as part of the application for a Special Use Permit, modifications of the original plans may be made by the Board of Adjustment.

623.1. Accessory Dwelling Units

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Purpose

The purpose of an accessory dwelling unit is to:

- (a) Provide flexible housing options for residents and their families;
- (b) Integrate affordable housing into the community with minimal negative impact;
- (c) Provide elderly citizens with the opportunity to retain their homes and age in place.

Standards

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1. An accessory dwelling unit shall be located only on a residential lot containing one single-family detached structure. The residential lot may contain other accessory structures as provided in this ordinance.
2. Only one accessory dwelling unit shall be permitted per lot.
3. Accessory structures shall not exceed the height of the principal structure.
4. The accessory dwelling shall meet the appropriate setbacks.
5. The accessory dwelling shall be clearly subordinate to the main structure.
6. The accessory dwelling unit must contain complete kitchen facilities including a stove or cook top and a full bath including lavatory, water closet, and tub or shower (or combination).
7. At least one parking space shall be provided in addition to those required for the principal dwelling.
8. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for use as an accessory dwelling.
9. An accessory dwelling unit shall be occupied by no more than four (4) persons.

623.2. Home Occupation

- 1) No person other than members of the family residing on the premises shall be engaged in such occupation; except one non-resident employee may work in the home 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;

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- 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) non-illuminated sign, not exceeding a four (4) square foot area.
- 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 setback.

**ARTICLE IX - PARKING AND LOADING REGULATIONS**

*(Revised 6/14/2001); (Revised 11/14/2002); (Revised 9/10/2009)*  
*(Revised 1/14/2010); (Revised 1/10/2013+); (Revised 07/ /2020*

**900 Parking Regulations.**

900.1 General Statement. The Town of Montreat is a unique community that features and includes: (i) a conference center; (ii) a college, (ii) inns, (iii) gymnasiums, playgrounds, tennis courts and other athletic and recreational facilities; (iv) scenic areas and trails; (v) offices and other supporting facilities; and (vi) residential areas for single and multi-family use, dormitories and apartments (collectively the "Usages"). Many of these facilities and the parking lots, spaces, structures and facilities that support them have existed for decades and it would be difficult and expensive for the owners and/or operators thereof to add or reconfigure onsite and offsite parking beyond that which is presently in use and serving such facilities. Therefore, it is the intention of the Town of Montreat that as to all of the present Usages, the parking serving such Usages be deemed to be conforming to the maximum extent, and only with respect to construction of additional structures or substantial expansion, modification or alteration of existing Usages, will additional parking be required and in such cases the provisions of this Ordinance shall apply. It is also noted that in many cases parking facilities for conference center and college buildings can be combined to support more than one facility or Usage, instead of new or additional spaces being required for each separate building or facility. It is the intention of the Town of Montreat that Off-Street Parking areas shall be required at the time of initial construction of any new Building or at the time of any expansion of an existing Building that produces an increase in dwelling units, guest rooms, floor area, seating or bed capacity, or when a conversion in use occurs. Such off-street parking areas shall be provided and maintained in accordance with the requirements set forth herein.

The requirement for additional off-street parking areas to supplement existing parking shall apply to new construction or modifications to existing Buildings resulting in increases in area or changes in use or occupancy classification.—The requirement for additional parking shall be based upon the increased area or change only and related solely to the need for increased parking resulting from the increases in area or changes in use or occupancy classification.

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901 Parking Area Construction Standards. With the exception of Sections A and F below, single- and two-family residential uses shall be exempt from the parking area construction standards unless specifically referenced. As stated in Section 900.1 above, entrances, parking spaces/areas, aisles or driveways in existence prior to adoption of this Ordinance which do not meet the specific provisions contained herein shall nevertheless be considered to be conforming, and may be continued or maintained.

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A. Parking Space Requirements. For the purpose of this Ordinance, parking space dimensions (other than those designed to be handicap accessible) shall be as follows:

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1. A standard car parking space is nine feet (9') wide and eighteen feet (18') long.

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2. A compact car parking space is eight feet (8') wide and sixteen feet (16') long.

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3. Parallel parking space dimensions shall be a minimum of eight feet (8') wide and twenty feet (20') long.

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B. Entrances (sometimes "Aisle") and Driveway Widths. No two-way entrance aisle or driveway shall be greater than twenty-four feet (24') wide. In no event shall an entrance be greater than twelve feet (12') for one-way traffic.

C. Surfacing.

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1. All vehicular parking spaces shall be constructed of durable, dustless surface as defined herein unless otherwise approved by the Zoning Administrator and shall comply with the remaining requirements of this section for durable, dustless surfaces.

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2. The installation of a durable, dustless surface may be temporarily delayed upon approval of the Zoning Administrator whenever it can be shown by the property owner or developer that the permanent size, shape or location of the parking area cannot be determined until the construction of a Building or permanent development of the property is completed. In those instances where a nondurable, non-dustless surface is approved, such surface shall at all times be maintained in good condition and free of ruts, potholes and vegetation. Failure to properly maintain such area shall be sufficient cause for the Zoning Administrator to require the owner to construct a durable, dustless surface.

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3. For the purposes of this Section, a durable, dustless surface shall be constructed of concrete, asphalt, macadam, brick or similar material

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or special paving brick or block or structural grid material of such design as to permit the passage of water freely through the brick or block or permit the cultivation of grass within the voids thereof.

4. Loose stone or compacted stone without a suitable bonding agent may be acceptable as a durable, dustless surface if incorporated as part of an approved engineered pervious surface designed to accept the associated vehicular loads.

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- D. The Town of Montreat encourages Low Impact Development (LID) and other innovative stormwater management techniques. Conventional curbing may be waived by the Town if alternative designs are approved and incorporated to encourage sheet flow drainage into pervious areas, or otherwise designed as part of an overall engineered stormwater retention/treatment system. All non-exempt residential and non-residential paved parking areas not utilizing approved alternative techniques shall be curbed using a standard curb with a minimum width of 4'-6"-6" and may include a horizontal drain support/gutter having a minimum width of one (1) foot.

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Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or allow vehicles to strike against or damage any wall, vegetation, utility, or other structure. Such off-street parking areas shall be provided and maintained in accordance with the requirements set forth herein.

- E. Markings and Signage. All non-exempt residential and non-residential paved parking spaces/areas shall be clearly delineated and identified by use of reflective paint, signage or other durable surface treatment as approved by the Town. Signage shall be Engineering Grade Prismatic (EGP) reflective finish designed in compliance with the current effective Manual on Uniform Traffic Control Devices (MUTCD) available for review at the Town Services Office. Accessible spaces for use by persons with disabilities shall be provided in conformity with the current effective North Carolina State Building Code and ADA standards. Compact car, bicycle, and other special-use parking spaces, if constructed or erected, shall be clearly identified and located to facilitate use by residents and/or the public.

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Parking areas shall be constructed with a well-maintained traffic directional system and proper drainage.

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- F. Stormwater Management. All newly-installed parking lots, regardless of surfacing, shall retain stormwater onsite or direct flows to systems designed to effectively remove pollutants and promote infiltration and recharge of the subsurface aquifer.

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- G. Landscaping. Landscaping requirements are set forth in Section 631 of this Ordinance Code.

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H. Permitted Slope. With respect to new construction: (i) no grade within a commercial or institutional parking area (excluding portions thereof used for driveway purposes) shall exceed sixteen percent (16%) slope; and (ii) residential parking areas shall not exceed twenty percent (20%) maximum grade. Driveway areas that exceed 20% slope and/or which do not provide adequate turnaround width for parked vehicles shall not be included in calculation of required parking spaces. Accessible parking spaces, as defined by the current effective North Carolina State Building Code and ADA standards shall not exceed a surface slope of two percent (2%) at any point.

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902 Off-Street Parking Space Requirements. Off-street parking space shall be provided for uses listed below as specified.

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A. Single and Two Family Residential; Multi-Family Dwellings. The total number of required parking spaces for residential structures shall be calculated by considering heated square footage as follows: Two (2) spaces required per Dwelling Unit up to 2500 square feet. One (1) additional space required for each additional 1000 square feet or portion thereof above 2500. For existing residential structures as of the date of adoption of this Ordinance, one (1) additional parking space shall be required for each 1000 square feet (or portion thereof in excess of 500 square feet) that is added to the structure. By way of example, if 500-1499 square feet is added, one (1) additional space is required; if 1500-2499 square feet is added, two (2) additional spaces are required.

B. Bed and Breakfasts and Boarding Houses, and Hotels. A minimum of one (1) standard car parking space for resident owner or manager is required, and a minimum of one (1) standard space per Dwelling Unit or rooming unit. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact car spaces.

C. Dormitories. One (1) standard space is required per each two (2) persons in the dorm based on full occupancy. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact spaces.

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D. Other Occupancies/Uses. One (1) standard space is required per 1,000 square feet of gross floor area. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact car spaces.

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903 Bicycle Parking. Providing for bicycle parking is encouraged but not required.

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904 Shared Parking. Shared parking may be approved under the following conditions:

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A. Adjacent parking areas serving non-residential buildings must be interconnected.

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B. Ordinarily only two (2) facilities/buildings that meet the conditions stated in this section may request shared parking for a given parking lot/area, but the Zoning Administrator may approve shared parking for more than two (2) buildings pursuant to a plan approved by the Zoning Adjustment Board.

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C. Where vehicular access is provided between adjoining non-residential uses and the operating hours of adjoining uses do not overlap, all of the required parking spaces (up to 100%) may be shared. For example, if a church, theater, assembly hall or other use with peak hours of attendance at night or on Sundays, is located next to another use or uses that are closed at night or on Sundays, both uses may be able to take advantage of this option.

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D. If the operating hours of two (2) adjoining non-residential uses overlap five or fewer hours each day, half of the required parking spaces (up to 50%) may be shared.

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E. Where shared parking is being utilized to satisfy the parking requirements for new construction or the expansion of existing facilities/buildings, the owners of the adjoining uses shall have shared parking easements or agreements in place providing them with an enforceable legal right to use the shared spaces as represented to the Town.

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, and as provided for below;

905.1 Parallel parking and/or diagonal parking are 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 new parallel parking or diagonal parking spaces in the I and I/R Districts of Town are subject to review and approval on a case-by-case basis by the Town Administrator.

905.2 Residential buildings may meet or contribute to meeting motor vehicle parking requirements with on-street parking if individual driveways are minimized and the fronting street is sized or specifically designed to accommodate the parking needs of residential buildings. On-street parking shall be permitted by the Town Administrator. Owners of residential buildings who use public street parking spaces are subject to the following provisions: (i) their use of public street parking

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spaces is non-exclusive and continued access by the public shall be maintained; and (ii) no private signage shall be permitted that restricts public use of designated on-street parking spaces or areas.

905.3 Structured Parking. Above or below-ground structured parking shall be permitted in accordance with a plan approved by the Zoning Adjustment Board.

906 Off-Street Loading Regulations.

906.1 Loading Spaces. Every Building, excluding single family, two family and group dwellings, shall provide space indicated herein for the loading and unloading of vehicles off the street. Such space shall have access to an alley or if there is no alley, to a street. Required space shall be considered as follows:

1. Multi-family dwellings with more than ten dwelling units and large group dwellings: One (1) loading space.
2. All other uses: Each applicant shall submit a loading space and driveway plan with data demonstrating the adequacy of the facilities proposed in the plan. The plan is subject to approval of the Zoning Administrator.

**ARTICLE X - SIGN REGULATIONS**

1000 Purpose. The purposes of this Article are: (i) to permit such signs in the Town of Montreat that will not, by their reason, size, location, construction, or manner of display, confuse or mislead the public, obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and (ii) to permit and regulate signs in such a way as to support and complement land-use objectives set forth in the Zoning Ordinance for the Town of Montreat.

1001 General Regulations. The following regulations shall apply to all signs in all Zoning Districts:

1001.1 Compliance. No sign of any type shall be constructed, erected, painted, posted, placed, replaced, or hung in any District except in compliance with this Ordinance.

1001.2 Maintenance. All signs, together with braces, guys and supports shall at all times be kept in good repair. If at any time a sign should become unsafe or poorly maintained, the Zoning Administrator shall send written notice to the owner or lessee of the sign that the sign must be repaired, maintained

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or removed. Upon failure of the owner to correct such condition within thirty (30) days of such notice, the Zoning Administrator shall proceed with enforcement action pursuant to Section -----.

1001.3      ~~Removal of Obsolete Signs.~~ Signs identifying establishments no longer in existence, products no longer being sold, and service no longer being rendered shall be removed from the premises within ten (10) days from the date of termination of such activities. Temporary signs, pole-mounted banners giving notice of seasonal or special events, and political signs shall be removed within two (2) days after termination of the event or election advertised. Upon failure of the owner of these signs to remove such signs within the prescribed time period, the Zoning Administrator shall proceed with enforcement action pursuant to Section -----.

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1001.4      ~~Measurement of Area; Height.~~ Sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof which will encompass the entire advertising copy or art designed to attract attention including borders and other architectural embellishments. Sign height shall be measured from the street grade of the closest point in the street along which the sign is located or the average grade at the base of the sign, whichever is higher, to the highest point of the sign structure.

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1001.5      ~~Building Code Compliance.~~ All commercial signs shall fully comply with the requirements of the North Carolina State Building Code and National Electrical Code (NEC). A Building permit shall be required for any projecting sign attached to a Building or structure which has a surface area in excess of six (6) square feet. ~~An electrical permit is required for any internally or externally illuminated sign powered by electrical sources regulated by requirements of the NEC.~~

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1001.6      ~~Sign Setback Requirements.~~ No projecting portion of any free-standing sign may be located closer than two feet (2') to any vehicular or pedestrian traveled way. For the purposes of this Ordinance, house numbers and nameplates shall be exempt from this setback requirement.

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1001.7      ~~Illumination of Signs.~~ Unless otherwise expressly prohibited, signs may be illuminated from above at a downward angle provided that lighting directed toward a sign shall be shielded in such a manner as to illuminate only the face of the sign, and shall not project light into any portion of the traveled roadway or toward neighboring Buildings.

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1001.8      ~~Sign Permit Required.~~ A sign permit, issued by the Zoning Administrator shall be required for all signs except those specified in Section 1003 and 1004. No permit shall be issued until the Zoning Administrator inspects plans for such signs and determines that they are in accordance with the

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requirements contained in this Article. The fee schedule for sign permits shall be set forth in the Town of Montreat Fee Schedule.

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1001.9 Enforcement of Regulations. Any sign constructed after the date of enactment of this Article or any sign maintained in a non-conforming manner shall be subject to the following actions:

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1001.10 Notice. The Zoning Administrator shall notify in writing the following persons of the non-conforming sign:

- 1) The owner of the sign;
- 2) The owner of the property on which the sign is located; and;
- 3) The occupant of the property on which the sign is located.

Notice shall be given to the above persons that the non-conforming condition must be corrected within thirty (30) days from the date of notification.

1001.92 Penalties. Penalties for these requirements are specified in .....

1001.93 Appeals. Any person having an interest in a sign found to be non-conforming, or the property on which it is located, may appeal to the Board of Adjustment a determination by the Zoning Administrator ordering removal or compliance, as provided in Article XII of this Ordinance.

1001.94 Removal. If the non-conforming sign has not been removed or brought into compliance with the provisions of this Ordinance within the allotted thirty (30) days and if no appeal has been taken, as specified above, then said sign shall be removed by the Town and the cost of removal shall be billed to the owner of the sign.

1001.95 Failure to Pay Removal Costs. (a) Pursuant to N.C.G.S. § 160A-193, if the Zoning Administrator determines that a sign removed by the Town was dangerous or prejudicial to the public health or safety and the owner of the sign has not paid the costs of removal within 30 days of the billing date, then a lien in the amount of the costs of removal shall be placed on the real property where the removed sign was located, and shall be collected as unpaid ad valorem property taxes. (b) If no determination of danger or prejudice to the public health or safety is made, then the costs of removal shall be collected by the Town in a civil action in the nature of a debt.

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1002 Prohibited Signs. The following signs are prohibited, unless otherwise expressly permitted in this Ordinance:

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1002.1      ~~Signs Constituting Traffic Hazards.~~ Any sign located in a manner or place so as to constitute a hazard to vehicular or pedestrian traffic as determined by the Zoning Administrator.

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1002.2      ~~Signs in Street Right-of-Way.~~ Any free-standing sign located in a street right-of way or projecting over into a street right-of-way. One house number and/or name plate shall be permissible for each home.

1002.3      ~~Signs Obstructing Passages.~~ Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any Building.

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1002.4      ~~Off-Premises Advertising Signs.~~ Billboards and other types of off premises advertising signs.

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1002.5      ~~Flashing Devices.~~ Any flashing device or sign displaying flashing or intermittent lights or lights of changing degrees of intensity.

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1002.6      ~~Moving Devices.~~ Any commercial use of moving signs or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere or by electrical or other means, including but not limited to, pennants, flags, propellers, or discs, whether or not any said device has a written message.

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1002.7      ~~Posted Signs.~~ Any sign posted to utility poles, trees, fences, rocks or other signs. ~~Honorarium Signs meeting the requirements of 1005.25 are not prohibited under this section. House Number and Nameplate Signs meeting the requirements of 1004.6 are not prohibited under this section.~~

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1002.8      ~~Copies of Official Signs.~~ Any sign which is a copy or an imitation of an official sign, or which purports to have official status but does not have an official purpose.

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1002.9      ~~Portable Signs.~~ A sign that is not permanent, affixed to a Building, Structure or the ground.

1002.10      ~~Roof Signs.~~ A roof sign is any sign which is affixed to the roof of a Building or Structure.

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1002.11      ~~Signs Not Permitted.~~ Any sign not expressly permitted elsewhere in this Ordinance.

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1003      ~~Exempt Signs.~~ The following signs are exempt from the provisions of this Ordinance:

1003.1      ~~Governmental Agency Signs.~~ Signs erected or maintained by a governmental agency to regulate, control or direct traffic including Wayfinding signs, signs indicating bus stops, parking areas, and similar transportation facilities, or signs employed to serve as a directory for services that may be found within the Town. ~~Informational kiosks that~~

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provide maps and locational information. Such signs may be illuminated, flashing, or moving as required for public safety. Furthermore, signs erected by a governmental agency which convey information regarding a public service, or the location of a public facility may also be illuminated as necessary.

1003.2 Signs Required by Law. Signs erected pursuant to federal, state, or local laws or ordinances.

1003.3 Warning Signs. Signs which warn of hazards to life, limb, and property such as high voltage electrical equipment, explosives and the like.

1003.4 Montreat Conference Center Sign Structure Near Gate. The longstanding Montreat Conference Center sign structure containing approximately five sign positions is exempt as a grandfathered sign structure. Sign panels may be changed as and when necessary. A change in the design or size of the Montreat Conference Center sign structure is subject to approval of the Zoning Administrator.

1004 Signs Permitted or Required Without a Permit. The following types of signs shall be permitted in any Zoning District without the issuance of a sign permit provided they meet the stated requirements:

1004.1 Temporary Real Estate Signs. Temporary real estate signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such signs shall not exceed six (6) square feet in surface area per side. Signs shall not be illuminated and shall not exceed one (1) per parcel of land unless such land is located at an intersection of two streets; in such a case, two signs shall be allowed, one facing each street.

1004.2 Signs on Window Glass. Signs on window glass, regardless of size.

1004.3 Private Regulatory Signs. Private, unofficial regulatory signs not exceeding two (2) square feet in surface area per side, which indicate directions, entrances and exits, available parking facilities, no smoking, control of pets and other similar requirements. Such signs shall be located entirely on the property to which they pertain and shall not contain any advertising message.

1004.4 Construction Signs. One (1) construction sign per construction project not exceeding sixteen (16) square feet of sign area in residential Zoning Districts or thirty two (32) square feet in the Institutional or Institutional/Residential Zoning Districts, provided that such signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid Building Permit has been issued, shall be confined to the

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- site of construction, and shall be removed five (5) days after completion of construction and prior to occupancy.
- 1004.5 Public Notice. Official notices posted by public officers or employees in the performance of their duties.
- 1004.6 House Number Signs. Street address numbers must be clearly displayed so that the location can be identified easily from the road. Every property owner of improved property shall purchase and display in a conspicuous place on said property the number assigned.
- 1004.61 The official address number must be displayed on the front of a Building or at the entrance to a Building which is most clearly visible from the street or road during both day and night.
- 1004.62 If a Building is more than seventy-five feet (75') from any road or if two or more homes use the same entrance, the address number(s) shall be displayed at the end of the driveway or easement nearest the road which provides access to the Building(s)
- 1004.63 Numerals indicating the address number shall be at least three (3) inches in height and shall be posted and maintained so as to be legible from the road.
- 1004.64 Numerals must be of contrasting color to the background. Reflective numbering or placing reflective dots at the sign to direct attention to it is encouraged.
- 1004.65 The Zoning Administrator will have the right to authorize and approve alternate methods of displaying house numbers which meet the intent of this Ordinance when strict adherence to these standards cannot reasonably be met.
- 1004.7 Residential Nameplate Signs. Residential nameplate signs are permitted and may include house numbers. Residential nameplate signs shall not exceed six (6) square feet in area.
- 1004.8 Political Signs. Political signs shall, with the permission of the property owner, be allowed on private property more than five (5) feet from the traveled portion of the roadway, sixty (60) days before and on the date of the election or referendum, and shall be removed within one day after said election or referendum. Political signs are defined as signs for candidates for election or for issues on the ballot, and such signs shall not exceed eight (8) square feet in area per display side. Political signs may not be illuminated.

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1004.9 Temporary Special Event/Public Interest Signs. Signs providing notice of upcoming events or gatherings of special interest to the public, meeting dates and locations, etc. may be displayed, but only in accordance with the following requirements:

- (a) Such signs shall be no larger than four (4) square feet of surface area per side;
- (b) Such signs must be located at least two (2) feet from the paved or traveled portion of the road or sidewalk along which they are placed;
- (c) Such signs shall be placed no earlier than fifteen (15) days before the event to which they refer; and
- (d) Such signs must be removed no later than two (2) days after the conclusion of the event to which they refer. Signs shall be limited to informational material only; no commercial advertisements or for-profit endorsements shall be permitted.

1005 Signs Allowed with Permits. The following types of signs shall be allowed within the Town of Montreat upon the issuance of a sign permit for each proposed sign and subject to the regulations set forth below:

1005.1 Signs Allowed in Residential Zoning Districts (R-1, R-2, and R-3). The following types of signs shall be allowed in all of the residential Zoning Districts subject to the accompanying restrictions and the issuance of a sign permit:

1005.11 Home Occupation Signs. Each home occupation shall be allowed one (1) sign for purposes of identification. Said sign shall not exceed four (4) square feet of surface area. Signs shall not be illuminated.

1005.12 Subdivision Signs. One (1) ground sign per entrance to a subdivision. Said sign(s) shall be no larger than sixteen (16) square feet of surface area per side. Signs shall not exceed six feet (6') in height and may not be illuminated.

1005.13 Non-Residential Uses. Non-residential uses permitted as a special use in residential Zoning Districts shall be allowed one (1) freestanding or wall identification sign per street fronted on by the permitted use. Said sign shall be no larger than eight (8) square feet of surface area per side. Signs shall not exceed eight feet (8') in height and shall not be illuminated.

1005.2 Signs Allowed in the Institutional/Residential and Institutional Zoning Districts. The following types of signs shall be allowed in the above Zoning Districts for uses permitted in accordance with the special use permitting

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process or for a use-by-right for that Zoning District subject to the accompanying restrictions and the issuance of a sign permit:

1005.21 **Ground or Free-Standing Signs.** For each Principal Building on a Lot, one (1) ground sign not to exceed the following surface area limitations: Sixteen (16) square feet in surface area per side of sign.

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1005.22 **Wall Signs.** For each Principal Building on a Lot located in the Zoning Districts set forth in Section 1005.2: One (1) wall sign located on the street frontage side of the Building not to exceed sixteen (16) square feet. Existing or newly engraved permanent wall signs consisting of chiseled or hewn stone which identify the current use or occupancy of an associated structure are permitted to serve as one (1) allowable wall sign on the street frontage side of the Building. Should the use or occupancy change such that the chiseled or engraved sign no longer serves to indicate the current use or occupancy of the structure, one (1) new wall sign shall be permitted.

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1005.22 **Multi-Tenant Signs.** Buildings occupied by two or more tenants, regardless of individual or shared ownership, are permitted to have one (1) free-standing sign on the property on which the Building is located. The maximum size of such free-standing signs shall not exceed sixteen (16) square feet in surface area per side of sign. In addition, each multi-tenant Building shall be allowed one (1) wall sign, per tenant, not to exceed eight (8) square feet of surface area. The sign structure(s) may be designed to allow the addition or removal of copy elements as tenants change in the case of multi-tenant Buildings.

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1005.23 **Buildings Located on Corner Lots.** In cases where a Building is located on a corner or double-frontage lot, then said Building is allowed two (2) wall and two (2) freestanding signs - one (1) of each sign type facing each street that borders the lot.

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1005.24 **Honorarium Signs.** Honorarium Signs shall be permitted if the size and scale are deemed proportionate to the structure and location whereon displayed. Signs may be located on existing rocks, Buildings or other structures as approved by the property owner. Signs shall be constructed of stone or bronze and securely anchored so as to prevent dislocation by weathering or impact. Signs erected above walkways or other areas of public assembly shall be subject to approval by the Building Inspector for adequate anchorage and structural support.

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1005.25 **Educational Signs.** Signs that supply information about people, facilities, natural features or other areas of educational or historical interest shall be permitted as educational signs. Maximum size of such free-standing signs



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shall not exceed twelve (12) square feet in surface area for pedestal mounted structures.

1005.3 Temporary Signs Allowed in All Zoning Districts. In addition to the provisions of 1004.9, temporary signs, flags, or banners advertising the initial openings of businesses, establishments, special events or special sales may be permitted provided the location and duration of such signs is approved by the Zoning Administrator. Such signs may be freestanding or attached to any part of a building, wall, or other structure and said signs shall not exceed 165 square feet in aggregate surface area and shall meet all other requirements. An example of a sign permitted hereunder is with Welcome wall sign hung by Montreat College (approximately 23' x 7') below the wall of the Howerton Building at the beginning of academic quarters.

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1005.4 Recreational Signs. Sign structures designed to identify the location of, and provide other information concerning, specific recreational features, such as hiking and walking trails and bicycle paths, through maps and trail-head informational displays, are permitted in all zoning districts. Such signs are to be limited to the location of the associated feature(s) and are subject to approval by the owner of the land on which the sign and recreational feature(s) are located. Maximum size of such free-standing signs shall not exceed twenty-four (24) square feet in surface area for multi-base frame structures. Sign structures are to be fabricated of naturally-durable species of wood in the form of logs and roughhewn dimensional timbers that cohere with the adjacent natural setting and location. Sign structures may be allowed with small roof or canopy features to provide weather-protective cover for viewers, subject to approval by the Building Inspector. Roof coverings shall also be constructed of naturally durable species of wood such as cedar, redwood, black locust or black walnut.

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1005.5 Campus Identification and Directive Banners. Banners identifying portions of the Montreat College campus and buildings or locales thereon may be installed on utility poles and other Structures on the campus. The location, sized and duration of such banners must be approved by the Zoning Administrator in his/her reasonable discretion, and shall be subject to the following: (a) the owner of the pole or structure must have consented to the placement of the banner thereon; (b) the maximum banner size is 28.5 inches in width by 6 feet in length; (c) the bottom of the banner must be no lower than 11 feet above the ground surface; and (d) if a pole is located within 3 feet of the back of the street curb, the banner must not be installed on the road side of the pole.



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1005.6 Wayfaring Signs. Government agency-owned wayfaring signs are exempt from the provisions of this Ordinance as provided in section 1003.2 above. Privately owned wayfaring signs which do not exceed four (4) square feet in surface area are permitted in all Zoning Districts except R-1, R-2 and R-3, provided the location of such signs is approved by the Zoning Administrator. Privately owned wayfaring signs that are part of a community wayfaring system approved and adopted by the Town may be greater than four (4) square feet in surface area and may be in any Zoning District if and to the extent such is provided for in the ordinance adopting such community wayfaring system. No wayfaring signs other than government agency-owned wayfaring signs may be placed on public rights-of-way or other Town property without obtaining the permission and approval of the Town, which approval or permission may be withheld or conditioned by the Town in its sole and complete discretion. As used in this ordinance, the term "wayfaring sign" means a sign designed and intended to help to direct a person from point to point or confirming a person's progress along a route.

1006 Non-Conforming Signs. Any sign which existed on the date of adoption of this Ordinance, but which does not meet the requirements of the Ordinance shall be deemed a non-conforming sign and may continue to be used, but only in accordance with the following provisions:

1006.1 Maintenance of Non-Conforming Signs. All non-conforming signs shall be maintained in accordance with the requirements of this Article, provided, however, that no repainting of the sign shall alter the design of the sign in any fashion. If the design or dimensions of a non-conforming sign are altered, the non-conforming sign shall be removed or conformed to this Article at the time of the redesign.

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1006.2 Replacement of Non-Conforming Signs. If a non-conforming sign is destroyed by vandals or adverse weather conditions, such sign may be replaced. If it is replaced, it shall conform to the requirements in this Article. Normal weathering does not constitute destruction by adverse weather conditions which would permit replacement of a non-conforming sign. If a sign is allowed to deteriorate, it shall not be replaced under this Section.

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1006.3 Relocation of Non-Conforming Signs. A non-conforming sign may be relocated on the same premises on which it is located if the relocation brings the sign into conformity.

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1. Removal of Non-Conforming Signs. All non-conforming signs must be removed or brought into compliance with this Ordinance

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no later than five (5) years after the date of adoption of this Ordinance.

900 Landscaping Requirements.

618.1 Existing Flora. All developers of public and private property shall make every effort to protect and retain existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage-ways, Building foundation sites, private driveways, paths and public walkways wherever possible. Trees are to be protected and preserved during construction in accordance with sound conservation practices. All such trees may be preserved by well islands or retaining walls wherever abutting grades are altered.

901 Purpose

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901.1. The intent of this section is to improve the appearance, quality and quantity of landscaped areas that are visible from public roadways and within parking lots, in accordance with the following purposes:

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- 1) To assist in providing adequate light and air and in preventing overcrowding of land;
- 2) To provide visual buffering and to enhance the beautification of the Town;
- 3) To safeguard and enhance property values and to protect public and private investment;
- 4) To preserve, protect and restore the unique identity and environment of the Town of Montreat;
- 5) To encourage the preservation of existing trees and vegetation;
- 6) To aid in stabilizing the environment by contributing to the process of air purification, ground water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, and heat reduction;
- 7) To conserve energy; and
- 8) To protect the public health, safety and general welfare of the Town.

901.2 Applicability. The requirements of this Section shall apply to all land zoned Institutional, Institutional/Residential and any proposed Planned Unit Development.

901.3 Landscape Plan Required. The landscape plan as required by this Section shall accompany any request for a Building Permit from or plat approval by the Town of Montreat. No Building Permit shall be issued nor plat approved until the landscape plan is approved by the Zoning Administrator. The Zoning Administrator may request any additional information needed to determine compliance with this Section.

901.4 General Provisions.

619.41 All plant materials used to comply with the requirements of this Section should be native or appropriate species for this geographic area. A list of recommended species for landscaping is provided in Appendix --.

901.5 A temporary Certificate of Occupancy may be issued to a developer/owner if the landscaping cannot be planted at the time the use opens or is re-established due to inappropriate timing for the growing season. A temporary Certificate of Occupancy shall specify the date that the landscaping will be planted. The Building Inspector shall have the authority to revoke the temporary Certificate of Occupancy if the landscaping is not planted by the date specified. The developer/owner shall also guarantee in writing that he/she or

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his/her successors, shall provide the required landscaping within the time period specified in the temporary Certificate of Occupancy.

901.6 Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard.

901.7 All landscape planting areas shall be stabilized from dust and soil erosion immediately upon planting and shall be so maintained for the duration of the premises.

901.8 The property owner is responsible for maintaining all required plant material in good health.

901.9 Credit for Existing Trees. The Zoning Administrator may waive the requirement to provide the new trees required by this ordinance if trees existing on the site are protected and maintained before, during and after construction in accordance with sound conservation practices. If a saved tree dies at any time, it shall be replaced with a tree (or trees) that will provide similar screening or shading.

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901.10 Exceptions. The Zoning Administrator is authorized to waive specific landscape requirements, or portions thereof, if meeting the requirements will cause insurmountable difficulties for a development proposal.

902 Landscape Plan Contents. The landscape plan shall contain the following elements:

1) Existing and proposed landscaping;

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2) Any screening required by Sections Article VII;

3) Existing and proposed land uses within 200 feet of the site and the zoning of those properties;

4) Existing vegetation intended to be saved under the provisions of 6---.---; and

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5) Topographic contours at intervals of not more than five feet, indication of the direction of storm water flow, and a description of all storm water control facilities.

903 Landscaping Required For All Sites. No less than five percent (5%) of the lot or parcel which is the subject of the required landscape plan shall be landscaped. This requirement may be met with both existing and new plants and trees. This requirement shall be met in addition to any area required for screening, provided that the total area of the site devoted to landscaping shall not be required to exceed forty percent (40%) of the site.

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904 Off-Street Parking and Loading Areas. Landscaping shall be required in and around all new or redesigned off-street parking and loading areas. Landscaping shall also be required in and around existing off-street parking and loading areas when a change in ownership occurs. In the case of a change in ownership, the new

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owner shall have one year to comply with the requirements. Landscaping shall be provided in these areas as follows:

904.1. For parking lots less than 2,500 square feet in parking area, no landscaping is required by this subsection. However the provisions of subsection 632.76 apply to all public parking lots. For parking lots greater than 2,500 square feet in size, the following overall requirements apply:

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| <u>Total area of parking lot (square feet)</u> | <u>Percent of parking lot area (square feet)</u><br><u>that must be landscaped</u> |
|--|--|
| <u>2,500 to 9,999</u>                          | <u>5%</u>  |
| <u>10,000 to 49,999</u>                        | <u>8%</u>  |
| <u>50,000 to 149,999</u>                       | <u>10%</u>   |
|  |  |

904.2. At least 50% of the required parking lot landscaping shall be provided as islands within the parking lot. One planting island is recommended for every 10 to 15 spaces.

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904.3. One tree of at least one and one half inch (1½") caliper (measured as the diameter of the tree trunk at four and one-half feet about the ground) and an initial height of at least six feet shall be provided for each fifteen parking spaces. The expected height at maturity of these trees shall be at least eight feet.

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904.4. No parking space shall be more than 75 feet from a tree or 100 feet from plantings of more than one tree.

904.5. Shrubs and other types of plant materials shall be used which will complement the tree plantings subject to approval by the Zoning Administrator.

904.6. All public parking and loading areas within 50 feet of a public right-of-way must include a visual screen that meets the following standards:

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- 1) At least 75% of vertical plane between the right-of-way and the parking area up to a height of 3 ½ feet shall be screened. Plant materials shall be provided which can reasonably be expected to meet this standard within three years;
- 2) The screen may be composed of vegetated earth berms, plant materials or a combination; and

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3) No screen is required at parking lot entrances or exits.

1000 **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

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of this Ordinance, may be continued or maintained in accordance with the following provisions.

**1000.1 Non-Conforming Lots – Vacant and Improved.**

A Non-Conforming Vacant Lot is any legally established lot upon which no structure is located and which does not meet the dimensional requirements for the district in which it is located. A non-conforming vacant lot which was in existence at the time of adoption of this Ordinance, may be used as a building site without regard for the dimensional requirements of the zoning district in which it is located, but subject to the setback and other requirements of such district.

A Non-Conforming Improved Lot is a lot (a) upon which a structure was the time of the adoption of this Ordinance and (b) which does not meet the minimum dimensional and/or setback requirements of the zoning district in which it is located. Such a structure and lot may continue to be used, maintained and renovated to the extent of its existing footprint, notwithstanding the dimensional and setback requirements of this Ordinance, and such a structure may be expanded but only in accordance with all setback and other dimensional requirements of this Ordinance or pursuant to a Variance obtained from the Zoning Board of Adjustment.

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**1000.2 Non-Conforming Structures**

A Non-Conforming Structure is a structure which was in existence at the time of adoption of this Ordinance, and which does not meet the minimum requirements of the zoning district in which it is located. Such non-conforming structure may continue to be used, maintained and renovated in accordance with Section 616.3 of this Ordinance, notwithstanding the dimensional and setback requirements of this Ordinance, and may be expanded but only in accordance with all setback and other requirements of this Ordinance or pursuant to a Variance obtained from the Zoning Board of Adjustment.

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**1000.3 Maintenance and Repair of Non-Conforming Structures.**

Routine maintenance, repairs, renovations and structural alterations to Non-Conforming Structures shall be permitted as follows:

- (a) Repairs, renovations and structural alterations required by law or ordered by an authorized public officer shall be permitted.
- (b) Routine maintenance, repairs, renovations and structural alterations of Non-Conforming Structures shall be permitted so long as no expansion of the non-conformity occurs as a result of the maintenance, repairs, renovations or alterations.

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(c) A Non-Conforming Structure which is damaged by fire or natural disaster may be repaired subject to the following requirements:

- a. The square footage of the Structure shall not be increased, and the footprint of the Structure shall not be enlarged;
- b. The repair of the Structure must be initiated within one year of the date of the fire or natural disaster; and
- c. The use of the Structure after repair shall not result in a non-conforming use or a change from one non-conforming use to another non-conforming use.

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**1000.4 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.

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**1402.2 Procedures.**

- A) Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint in accordance with the procedures established in the Town of Montreat Code.
- B) Extension of Time. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Zoning Official a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Zoning Official may extend the time limit as is reasonably necessary to allow timely correction of the violation,

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~~but such extension shall not exceed thirty (30) days.~~

~~The Zoning Official may grant extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this Ordinance.~~

~~The Zoning Official may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.~~

~~C) Enforcement After Time to Correct. After the time has expired to correct a violation, including any extension(s) if authorized by the Zoning Official, the Zoning Official shall determine if the violation is corrected. If the violation is not corrected, the Zoning Official may act to impose one or more of the remedies and penalties authorized by this ordinance.~~

~~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 Official may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Zoning Official 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~~

**Montreat Zoning Ordinances**  
**Article XIV: Legal Status Provisions**

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~~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.~~

~~F) Notice of Violation. Whenever provisions of this Ordinance have been violated by a responsible party as described in Section 1401, a verbal warning shall be issued the party or parties in violation of this Ordinance and the maximum time to correct clearly stated. If the violation is not corrected within the given timeframe, a written Notice of Violation (NOV) shall be issued to the responsible party or parties providing seven (7) calendar days to bring the property/condition into compliance or a corresponding civil penalty of \$50.00 will be levied for each offense. The issuance of a written NOV shall be considered a second offense. Subsequent violations of the provisions of this Ordinance that involve the same property and person(s) within one (1) year will be subject to increased civil penalties as outlined in Section 1402.1 (A).~~

~~1403 Repeal of Previous Zoning Ordinance. The previous Zoning Ordinance of the Town of Montreat, adopted together with all subsequent amendments thereto, is hereby repealed as of the effective date of this Ordinance.~~

~~All suits at law or in equity and/or all prosecutions resulting from the violations of any zoning ordinance heretofore in effect which are pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality as if this Ordinance had not been adopted; any and all violations of existing zoning ordinances, which have been pre-filed, shall be prosecuted to their finality.~~

~~1404 Effect Upon Outstanding Building Permits. Nothing herein contained shall require any change in the plans, construction, size or designated use of any Building, Structure or part thereof for which a Building Permit has been issued before time of passage of this Ordinance.~~

**Montreat Zoning Ordinances**  
**Article XIV: Legal Status Provisions**

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~~1405 Validity. Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.~~

~~1406 Effective Date. This Ordinance shall take effect and be in force from and after its passage and adoption.~~

**TOWN OF MONTREAT**  
**ZONING ORDINANCE**  
**ARTICLE XV – ANTENNA CONFORMANCE CODE**

~~This code is established to protect the scenic views enjoyed by many Montreat property owners, to enhance the rustic and un-commercialized character of Montreat, and to protect the residents of and visitors to Montreat from dangerous or faulty installation of antennas by regulating the installation of any antenna in any Zoning District or within 100 feet of any residence.~~

~~No Building Permit shall be issued after January 1, 1996 for any purpose where said permit relates to property containing an exterior antenna installed prior to January 1, 1996 and which does not conform to this code.~~

~~Any antenna used for the reception or transmission of communications by a radio station described in Section 153(q) of Title 47 United States Code, and operating under a license by the Federal Communications Commission pursuant to Part 97 of Title 47, Code of Federal Regulations preempts these regulations and are, therefore, exempted from the requirements of this code.~~

~~1500—Requirements for Antenna Placement.~~

~~1500(a): Any antenna having any dimension of twenty inches or less shall meet the following requirements:~~

- ~~1) Placement shall be behind the front Building line;~~
- ~~2) Maximum height shall not exceed the elevation height of the roof line of the principal Building, less three feet;~~
- ~~3) Setback distance of any antenna from property lines, including all support parts, shall be a minimum of five feet;~~
- ~~4) The maximum number of antennas shall be two per lot;~~
- ~~5) No existing landscaping shall be removed, relocated, or reduced in conjunction with antenna installation; and~~
- ~~6) Antenna color shall not obviously contrast with colors within its surroundings placement area. No bright or white finishes shall be used.~~

~~1500(b): Any antenna having any dimension greater than twenty inches shall not be installed prior to site plan approval by the Planning and Zoning Commission. The Commission shall consider the following provisions in approving or disapproving the required site plan of the proposed antenna installation:~~

- ~~1) Site Plan. The Commission shall not review an incomplete site plan. A site plan is incomplete if it does not adequately convey the following information:~~

~~A. Owner's name and address;~~

**Montreat Zoning Ordinances**  
**Article XV: Antenna Conformance Code**

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- ~~B. Date of the site plan;~~
- ~~C. Scale of the site plan;~~
- ~~D. Property lines and dimensions;~~
- ~~E. Identification of adjacent streets;~~
- ~~F. Location and dimensions of Buildings, walkways, driveway and fences within the property;~~
- ~~G. Location and horizontal dimensions of the proposed antenna, including all support components;~~
- ~~H. Minimum distance between an antenna and the nearest property line;~~
- ~~I. Location, length, width and height of all landscapes screening intended to be a visual barrier of antenna from adjoining lots; and~~
- ~~J. An elevation drawing inset describing the antenna, its height from grade, the Structures contained on the property and their heights from grade, and the location and the height of landscaping screening.~~

~~Horizontal/Vertical Placement. The antenna shall be situated on the property at a location that allows signal capture or transmission, but that will otherwise limit adverse impact to the aesthetic quality of the area to the maximum degree practical. Antennas shall be situated as far away as possible from streets, property lines, and areas easily viewed from locations off the property. Antenna shall be situated as close to grade as practical to allow adequate signal capture or transmission. Where proposed antenna height extends beyond ten feet in elevation above grade, horizontal placement of the antenna behind Buildings, screens, and/or vegetative landscaping shall be considered.~~

- ~~1) Landscaping. Landscaping shall be used to screen the antenna and its support from adjoining lots, streets or areas off the property. In instances where existing landscaping cannot provide an effective visual screen of antenna or its support components, new landscaping and other reasonable measures shall be employed to reduce visibility to the maximum degree practical.~~
- ~~2) Color/Graphics. No antenna shall be a bright, shiny or glare reflective finish. Every antenna shall be finished in color to blend with, rather than contrast with, the sky and site improvements immediately surrounding, providing that, whenever feasible, a light or mid tone color be used to meet this requirement. No antenna shall be used to display a sign or any other graphic.~~

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**TOWN OF MONTREAT**  
**ZONING ORDINANCE**  
**APPENDIX A – RECOMMENDED SPECIES FOR LANDSCAPING**

| <u>Type/Size</u> | <u>Genus</u> | <u>Species</u>                  | <u>Variety</u> | <u>Common Name</u>           | <u>Evergreen</u> | <u>Native</u> |
|------------------|--------------|---------------------------------|----------------|------------------------------|------------------|---------------|
| Groundcover      | Ajuga        | Reptans                         |                | Bugleflower                  | *                |               |
| Groundcover      | Cotoneaster  | Dammeri                         |                | Bearberry                    | *                |               |
|                  |              |                                 |                | Cotoneaster                  |                  |               |
| Groundcover      | Festuca      | Ovina                           |                | Blue Fescue                  | *                | *             |
| Groundcover      | Helleborus   | Orientalis                      |                | Lenten Rose                  | *                |               |
| Groundcover      | Hemerocallis | Hybrida or<br>fulva             |                | Day Lilly                    |                  |               |
| Groundcover      | Hosta        | Many                            | Many           | Hosta,<br>Plantain           |                  |               |
| Groundcover      | Juniperus    | Horizontalis                    |                | Creeping<br>Juniper          | *                |               |
| Groundcover      | Pachysandra  | Alleghaniensis<br>or procumbens |                | Alleghany<br>Spurge          | *                | *             |
| Groundcover      | Pachysandra  | Terminalis                      |                | Japanese<br>Spurge           | *                |               |
| Groundcover      | Phlox        | Subulata                        |                | Thrift                       | *                |               |
| Low Shrub        | Callicarpa   | Dichotoma                       |                | Beautyberry                  |                  |               |
| Low Shrub        | Ceanothus    | Americanus                      |                | New Jersey<br>Tea            |                  | *             |
| Low Shrub        | Cotoneaster  | Horizontalis                    |                | Rockspray<br>Cotoneaster     | *                |               |
| Low Shrub        | Deutzia      | Gracilis                        |                | Slender<br>Deutzia           |                  |               |
| Low Shrub        | Diervilla    | Sessifolia                      |                | Southern Bush<br>Honeysuckle |                  | *             |
| Low Shrub        | Euonymus     | Americanus                      |                | Evergreen<br>Bittersweet     | *                |               |
| Low Shrub        | Hydrangea    | Arborescens                     |                | Snowhill<br>Hydrangea        |                  | *             |
| Low Shrub        | Hypericum    | Profilicum                      |                | Shrubby St.<br>John's Wort   |                  | *             |
| Low Shrub        | Juniperus    | Communis                        | Depressa       | Prostrate<br>Juniper         |                  |               |
| Low Shrub        | Leucothoe    | Fontanesiana                    |                | Drooping<br>Leucothoe        | *                | *             |
| Low Shrub        | Mahonia      | Aquifolium                      |                | Oregon holly-<br>grape       | *                |               |



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

| <u>Type/Size</u> | <u>Genus</u> | <u>Species</u>     | <u>Variety</u> | <u>Common Name</u>    | <u>Evergreen</u> | <u>Native</u> |
|------------------|--------------|--------------------|----------------|-----------------------|------------------|---------------|
| Low Shrub        | Pieris       | Japonica           |                | Japanese Andromeda    | *                |               |
| Low Shrub        | Potentilla   | Fruticosa          |                | Bush cinquefoil       |                  |               |
| Low Shrub        | Viburnum     | Acerifolium        |                | Maple-leaf Viburnum   |                  | *             |
| Med. Shrub       | Abelia       | Grandiflora        |                | Glossy Abelia         | *                |               |
| Med. Shrub       | Alnus        | Serrulata          |                | Tag Alder             |                  | *             |
| Med. Shrub       | Buddleja     | Davidii            |                | Butterfly Bush        |                  |               |
| Med. Shrub       | Callicarpa   | Americana          |                | American Beautyberry  |                  | *             |
| Med. Shrub       | Clethra      | Ainifolia          |                | Sweet Pepperbush      |                  | *             |
| Med. Shrub       | Cornus       | Sericea            |                | Redtwig Dogwood       |                  | *             |
| Med. Shrub       | Fothergilla  | Major              |                | Large Fothergilla     |                  | *             |
| Med. Shrub       | Hydrangea    | Quercifolia        |                | Oakleaf Hydrangea     |                  |               |
| Med. Shrub       | Hypericum    | Densiflorum        |                | Dense Hypericum       |                  | *             |
| Med. Shrub       | Ilex         | Montana or Ambigua |                | Mountain Winterberry  |                  | *             |
| Med. Shrub       | Ilex         | Verticillata       |                | Common Winterberry    |                  | *             |
| Med. Shrub       | Itea         | Virginica          | Henry's Garnet | Virginia Sweetspire   |                  | *             |
| Med. Shrub       | Kalmia       | Latifolia          |                | Mountain Laurel       | *                | *             |
| Med. Shrub       | Kerria       | Japonica           |                | Kerria                |                  |               |
| Med. Shrub       | Mahonia      | Bealei             |                | Leatherleaf Mahonia   | *                |               |
| Med. Shrub       | Pyracantha   | Coccinea           |                | Scarlet Firethorn     | *                |               |
| Med. Shrub       | Rhododendron | Calendulaceum      |                | Flame Azalea          |                  | *             |
| Med. Shrub       | Rhododendron | Carolinianum       |                | Carolina Rhododendron | *                | *             |
| Med. Shrub       | Rhododendron | Catawbiense        | Many           | Mountain Rosebay      | *                | *             |

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

| <u>Type/Size</u> | <u>Genus</u>   | <u>Species</u>        | <u>Variety</u> | <u>Common Name</u>     | <u>Evergreen</u> | <u>Native</u> |
|------------------|----------------|-----------------------|----------------|------------------------|------------------|---------------|
| Med. Shrub       | Rhododendron   | Nudiflorum            |                | Wild or Pinxter Azalea |                  | *             |
| Med. Shrub       | Spiraea        | Prunifolia            | Plena          | Bridleweath Spirea     |                  |               |
| Med. Shrub       | Symphoricarpus | Orbiculatus           |                | Coral berry            |                  | *             |
| Med. Shrub       | Viburnum       | Ainifolium            |                | Hobblebush             |                  | *             |
| Med. Shrub       | Viburnum       | Cassinoides           |                | Witherod Viburnum      |                  | *             |
| Med. Shrub       | Viburnum       | Burkwoodii            |                | Burkwood Viburnum      |                  |               |
| Tall Shrub       | Aesculus       | Parviflora            |                | Bottlebrush Buckeye    |                  |               |
| Tall Shrub       | Aralia         | Spinosa               |                | Devil's Walkingstick   |                  | *             |
| Tall Shrub       | Calycanthus    | Floridus              | Laevigatus     | Sweetshrub             |                  | *             |
| Tall Shrub       | Ilex           | Decidua               |                | Possumhaw              |                  | *             |
| Tall Shrub       | Lonicera       | Frangrantissima       |                | Winter Honeysuckle     |                  | *             |
| Tall Shrub       | Philadelphus   | Inorderus             |                | Mock-Orange            |                  | *             |
| Tall Shrub       | Rhododendron   | Maximum               | Many           | Rosebay Rhododendron   | *                | *             |
| Tall Shrub       | Rhododendron   | Hybrida               | Exbury         | Exbury Hybrid Azalea   |                  |               |
| Tall Shrub       | Rhododendron   | Indica                |                | Indian Azalea          | *                |               |
| Tall Shrub       | Rhododendron   | Prinophyllum (Roseum) |                | Rose Azalea            |                  | *             |
| Tall Shrub       | Rhododendron   | Prunifolium           |                | Plumleaf Azalea        |                  | *             |
| Tall Shrub       | Salix          | Sericea               |                | Silky Willow           | *                | *             |
| Tall Shrub       | Sambucus       | Canadensis            |                | Elderberry             |                  | *             |
| Tall Shrub       | Syringa        | Vulgaris              |                | Common Lilac           |                  |               |
| Tall Shrub       | Syringa        | Persica               |                | Persian Lilac          |                  |               |
| Tall Shrub       | Viburnum       | Plicatum              | Tomentosum     | Doublefile Viburnum    |                  |               |
| Tall Shrub       | Viburnum       | Rhtidophyllum         |                | Leatherleaf Viburnum   | *                |               |
| Small Tree       | Amalanchier    | Arborea               |                | Serviceberry           |                  | *             |

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

| <u>Type/Size</u> | <u>Genus</u> | <u>Species</u>         | <u>Variety</u> | <u>Common Name</u>  | <u>Evergreen</u> | <u>Native</u> |
|------------------|--------------|------------------------|----------------|---------------------|------------------|---------------|
| Small Tree       | Cercis       | Candensis              |                | Eastern Redbud      |                  | *             |
| Small Tree       | Chionanthus  | Virginicus             |                | Fringe Tree         |                  | *             |
| Small Tree       | Cornus       | Alternifolia           |                | Pagoda Dogwood      |                  | *             |
| Small Tree       | Cornus       | Florida                |                | Flowering Dogwood   |                  | *             |
| Small Tree       | Cornus       | Kousa                  |                | Kousa Dogwood       |                  |               |
| Small Tree       | Hamamelis    | Virginiana             |                | Common Witch Hazel  |                  | *             |
| Small Tree       | Ilex         | Opaca                  |                | American Holly      | *                | *             |
| Small Tree       | Ostrya       | Virginiana             |                | Eastern Hophornbeam |                  | *             |
| Small Tree       | Oxydendrum   | Arboretum              |                | Sourwood            |                  | *             |
| Small Tree       | Pistacia     | Chinensis              |                | Pistachio           |                  |               |
| Small Tree       | Prunus       | Pensylvanica           |                | Pin Cherry          |                  | *             |
| Small Tree       | Prunus       | Serotina               |                | Black Cherry        |                  | *             |
| Small Tree       | Ptelea       | Trifoliata             |                | Hoptree             |                  | *             |
| Small Tree       | Tilia        | Cordata                |                | Littleleaf Linden   |                  |               |
| Small Tree       | Viburnum     | Rifidulum              |                | Blackhaw Viburnum   |                  | *             |
| Large Tree       | Acer         | Rubrum                 |                | Red Maple           |                  | *             |
| Large Tree       | Acer         | Saccharum              |                | Sugar Maple         |                  | *             |
| Large Tree       | Aeculus      | Flava                  |                | Yellow Buckeye      |                  | *             |
| Large Tree       | Betula       | Allegheniensis (Lutea) |                | Yellow Birch        |                  | *             |
| Large Tree       | Betula       | Lenta                  |                | Sweet Birch         |                  | *             |
| Large Tree       | Betula       | Papyrifera             |                | Paper Birch         |                  | *             |
| Large Tree       | Carya        | Cordiformis            |                | Bitternut Hickory   |                  | *             |
| Large Tree       | Carya        | Glabra                 |                | Pignut Hickory      |                  | *             |
| Large Tree       | Cladrastis   | Lutea                  |                | Yellowwood          |                  | *             |
| Large Tree       | Fagus        | Grandifolia            |                | Beech               |                  | *             |
| Large Tree       | Liriodendron | Tulipifera             |                | Tulip Tree          |                  | *             |

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

| <u>Type/Size</u> | <u>Genus</u>   | <u>Species</u> | <u>Variety</u> | <u>Common Name</u> | <u>Evergreen</u> | <u>Native</u> |
|------------------|----------------|----------------|----------------|--------------------|------------------|---------------|
| Large Tree       | Magnolia       | Acuminata      |                | Cucumber Tree      |                  | *             |
| Large Tree       | Nyssa          | Sylvatica      |                | Black Tupelo       |                  | *             |
| Large Tree       | Picea          | Rubens         |                | Red Spruce         | *                | *             |
| Large Tree       | Quercus        | Alba           |                | White Oak          |                  | *             |
| Large Tree       | Quercus        | Montana        |                | Chestnut Oak       |                  | *             |
| Large Tree       | Quercus        | Palustris      |                | Pin Oak            |                  | *             |
| Large Tree       | Quercus        | Phellos        |                | Willow Oak         |                  | *             |
| Large Tree       | Quercus        | Rubra          |                | Red Oak            |                  | *             |
| Large Tree       | Quercus        | Stellata       |                | Post Oak           |                  | *             |
| Large Tree       | Platanus       | Occidentalis   |                | Sycamore           |                  | *             |
| Large Tree       | Tilia          | Americana      |                | American Linden    |                  | *             |
| Large Tree       | Tsuga          | Canadensis     |                | Canadian Hemlock   | *                | *             |
| Large Tree       | Ulmus          | Americana      |                | American Elm       |                  | *             |
| Vine             | Aristolochia   | Macrophylla    |                | Dutchman's Pipe    |                  | *             |
| Vine             | Bignonia       | Capreolata     |                | Crossvine          | *                | *             |
| Vine             | Clematis       | Virginiana     |                | Virgin's Bower     |                  | *             |
| Vine             | Parthenocissus | Quinquefolia   |                | Virginia Creeper   |                  | *             |

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# **ZONING ORDINANCE**

## **TOWN OF MONTREAT NORTH CAROLINA**

Prepared by the Planning and Zoning Commission

**Adopted October 14, 1999 by the Board of Commissioners**

### **Revised:**

March 8, 2001  
September 13, 2001  
December 2, 2002  
January 8, 2004  
December 9, 2004  
May 12, 2005  
April 6, 2006  
May 10, 2007  
August 14, 2008  
October 8, 2009  
January 14, 2010  
October 11, 2012  
September 12, 2013  
June 12, 2014

June 14, 2001  
November 14, 2002  
July 10, 2003  
June 10, 2004  
March 10, 2005  
September 8, 2005  
July 13, 2006  
March 13, 2008  
September 10, 2009  
November 30, 2009  
October 14, 2010  
January 10, 2013  
May 8, 2014  
February 11, 2016

**Prepared with Assistance from the  
Land-of-Sky Regional Council**

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- 1.2 Authority and Enactment
- 1.3 Effective Date
- 1.4 Jurisdiction
- 1.5 Purpose
- 1.6 Priority and Precedence of Ordinance
- 1.7 Relationship to the Comprehensive Plan
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- 2.2 Definitions

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## ARTICLE I – GENERAL PROVISIONS

Pursuant to the authority conferred by the North Carolina General Statutes §§160D, 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.

101     Title

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

102     Authority and Enactment

An ordinance establishing comprehensive zoning regulations for the Town of Montreat, a municipal corporation of the state of North Carolina, and (a) providing for the administration, enforcement and amendment thereof, in accordance with the provisions of the North Carolina General Statutes, Chapter 160D, and (b) 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.

103     Amendment Effective Date

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

104     Jurisdiction

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

105     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.

106 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.

107 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 Board 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, the 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.

When acting on any proposed zoning amendment, the Town of Montreat shall carefully consider its adopted plans and policies. In accordance 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.

108 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 or occupy any land or buildings, or authorize or permit the use of land or buildings, except in accordance with all the applicable provisions of this ordinance.

(B) For purposes 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 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.

#### 109 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 the Town's fee schedule and shall be paid upon submission of a signed application or notice of appeal, as the case may be.

#### 110 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.

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.

## ARTICLE II – DEFINITIONS

201 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:

200.1 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;

200.2 The word "shall" is always mandatory;

200.3 The word "may" is permissive;

200.4 The word "Lot" includes the word "plot" or "parcel";

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

200.6 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;

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

200.8 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.

202 Definitions.

Accessibility Feature: An improved accessible walkway and/or path of travel from the parking/passenger loading area of a Building to the Building entrance, in the form of 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. 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.

Antenna 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.

Bed and Breakfast – An owner-occupied lodging establishment, located in what would ordinarily be considered a Single-Family Dwelling, in which overnight lodging is provided for the general public and in which a breakfast is served to overnight guests.

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 or vegetative area for environmental or aesthetic purposes.

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.

Building: Any Structure, fully or partially enclosed, and constructed or used for residence, business, industry or other public or private purposes, or purposes accessory thereto, including without limitation 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.

Building Height: The vertical distance measured from the 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.

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

Certificate of Zoning Compliance: A certification issued by the Zoning Administrator 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.

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

Day Care Center: A day care center includes child day care facilities, 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). The term also includes a center providing day care on a regular basis for more than two hours per day for four or more adults in accordance with NCGS 131 D-6.

Deck: An elevated structural platform, which may be constructed of any materials, either free standing or attached to a Building, connected by structural supports at grade.

Dedication: The voluntary donation of land or an Easement over, under, across, and/or through a parcel of land by the owner thereof 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 or staff of a college, boarding school, conference center, monastery or other similar institutional Use. Dormitories may contain common, shared kitchen facilities and bathrooms but shall not contain individual kitchen facilities.

Dwelling: Any Building, or portion thereof, containing sleeping, kitchen and bathroom facilities, and which is designed and/or used for living and sleeping purposes for one or more Families.

Dwelling Unit: A Dwelling designed and used, or held ready for use, as a permanent, separate residence for one (1) Family only.

Dwelling Unit, Accessory (ADU): A residential Dwelling Unit located on the same Lot as a Single-Family Dwelling Unit, either as a separate Structure, an attached extension, or located within the principal Dwelling Unit; and is set up as a separate, complete housekeeping unit, and

is subordinate to the principal Single-Family residence. ADU's are permitted in accordance with and subject to Article           .

Dwelling, Multi-Family: A single, detached Building, other than a Manufactured Home, containing three (3) or more separate Dwelling Units.

Dwelling, Single-Family: A single, detached Building, other than a Manufactured Home, containing one (1) Dwelling Unit.

Dwelling, Two-Family (Duplex): A single, detached Building, other than a Manufactured Home, containing two (2) separate Dwelling units.

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: A Building 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 and counseling centers.

Family: One or more persons living together as a single housekeeping unit; provided, however, that unless all such persons are related by blood, adoption, marriage, legal guardianship or other such legal family relationship, then such housekeeping unit shall contain no more than four (4) unrelated persons, unless specifically allowed by other provisions of this ordinance.

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: 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.

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.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a Building measured from the interior 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 Gross Floor Area of a Building less and excluding the floor areas of a such Building, attributable to stairwells, elevator shafts, equipment rooms, interior vehicular parking or loading areas, and all floors below the first or ground floor, except where such floors are 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, Commercial: Any garage which for consideration is used for storage, repair, rental, maintenance, servicing, washing, adjusting, or equipping of automobiles or other vehicles.

Greenspace: Strips of publicly owned and maintained land, generally (but not always) following the Rights-of-Way of public Streets, that are designated for recreation, fishing, ~~greenspaces~~ natural areas, and beautification of the Town as defined by the "Greenspace Resolution" adopted by the Town Commission on July 1, 1983. Note: Resolution will be incorporated into the ordinance as an Appendix item.

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

Grocery Store (Convenience): A retail establishment which deals principally in a limited selection of common items including without limitation food, household goods, automobile supplies, beverages, and packaged goods. In addition, the Building in which such an establishment is housed is generally smaller and typically designed for easy vehicular 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, 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.

Home Occupation: Any Use conducted entirely within a Dwelling or an Accessory Building and carried on by the occupants thereof (and their secretarial or administrative assistants, if any), 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 -----.

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.

Hotel- A Building or Buildings in which sleeping accommodations are provided and offered to the public for compensation, in which the rooms are usually occupied singularly for hire, and in which there is usually a kitchen and public dining room for the preparation and service of meals. The terms “lodge” or “inn” usually refer to types of Hotels which are more rustic or scenic by nature. A “motel” is a type of Hotel, but ordinarily does not include a restaurant.

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.

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 portion of a Lot that abuts a public Street or right of way (but not an Alley).
- 4) Lot, Interior: A Lot which has only one (1) Lot Frontage.

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
  - (D) the tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the Lot and before occupancy.

**Manufactured Home, Class B.** A manufactured home constructed after July 1, 1996 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a Class A Manufactured Home but meets the following standards:

- (A) skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the Manufactured Home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and
- (B) stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary Structure and anchored securely to the ground.

**Manufactured Home, Class C.** Any Manufactured Home that does not meet the definitional criteria of a Class A or Class B Manufactured Home. Manufactured

homes that do not meet the definitional criteria of Class A, B, or C Manufactured Homes are classified as recreational vehicles.

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.

Municipal Government Facilities: Facilities used for ~~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: The existing slope of land which may be cleared, but with no major disturbance of soil, prior to grading, excavation or filling.

Natural Grade, (Average): The average of the natural grade elevations at the four points on a Lot at which the front and rear yard setback lines intersect with the two side yard setback lines.

Nonconforming Lot: 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.

Nonconforming Structure: A Structure that does not conform to the requirements of the Zoning District in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

Nonconforming Use: A Use of a Building and/or land that does not conform to the requirements of the Zoning District in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

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 an Overlay District and its underlying Zoning District, the more restrictive requirements 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.

**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 safe for human consumption ~~drinking~~.

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

**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.

**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 an applicable Property Line (that is, front, side or rear Property Line) and the nearest portion of any Principal or Accessory Building, excluding the outermost four feet (4') 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 unrelated 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: 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 Special Use.

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 and 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.

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 streets 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.

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, size of Structure, size of Yards, and open spaces, as provided in Section 1204 of this Code.

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 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 and the side Property Line of the Lot and extending from the front Property Line to the rear Property Line.

Zoning 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 Include an illustration with standards.



### ARTICLE III – ADMINISTRATIVE PROVISIONS

- 301 Administration of this Ordinance. 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. 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 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 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 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 a plan 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 architectural or Building plans of the Structure proposed to be erected or altered; and
  - 9) Evidence of Title



Prior to issuance of a Certificate of Zoning Compliance, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

- 302.2 Zoning Compliance Certificate Fee. All applications for a Certificate of Zoning Compliance shall be accompanied by an application fee based upon the number of principal Structures per application. The fee shall set forth in the Town of Montreat Fee Schedule.
- 302.3 Certificate of Zoning Compliance Limited to Six Months Plus One Extension. If within six (6) months of the date on which a Certificate of Zoning Compliance is issued, construction has not begun on the structure for which the certificate had been issued, the certificate shall expire; but the Zoning Administrator shall grant one (1) extension of six (6) months to the certificate if so requested by the applicant. Such request shall be granted without any requirement of any additional fee.
- 302.4 Prior Approval Required for Plan Changes. Any changes to a development proposal in the Town, for which a Certificate of Zoning Compliance has been issued, voids the Certificate of Zoning Compliance for the proposal. A new application consistent with Section 602.1 shall be submitted to the Town Zoning Administrator describing the project including all proposed changes. No construction shall take place that is inconsistent with the approved plans until amended plans are fully approved by the Zoning Administrator.
- 302.5 Re-submission of Application for Zoning Compliance. An application that has been denied by the Zoning Administrator but not appealed to the Board of Adjustment may be re-submitted not more than once, unless there is a material change in the application or a change in the zoning ordinances related to the application.

303 Building and Occupancy Permits Required.

- 303.1 Building Permit Required. Upon receiving a Certificate of Zoning Compliance, the property owner shall obtain a Building Permit from the Town of Montreat Building Inspector for the construction or structural alteration of any Building or Structure. A permit fee, as set by the Town Commissioners shall be paid to the Town.
- 303.2 Building Permit Expiration. A Building Permit shall expire six (6) months from the date it was issued if the work authorized by the Building Permit has not been commenced. In addition, a Building Permit shall immediately expire if the work authorized by the Building Permit has been commenced but has been discontinued for a period of twelve (12) months.
- 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 Administrator shall be recorded in writing and may be appealed to the Board of Adjustment pursuant to the procedure found in Article XII of this Ordinance.
- 306 Notice of Violations and Citation Procedures.
- 306.1 Notice Required Before Penalty. No penalty shall be assessed unless and until the person alleged to be in violation has been notified of the violation in accordance with this section.

306.2 Notice of Violation. Whenever any Town official charged with the duty of enforcing regulations in this Ordinance has reasonable cause to believe that a person is violating any of the provisions of this Ordinance or any plan, order, or condition issued pursuant to this ordinance, that official shall cause the condition to be remedied. If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action after having been informed of the violation, the Zoning Administrator shall give the owner or occupant written notice (NOV), by certified or registered mail, to his last known address or by personal service or by posting notice of the violation conspicuously on the property:

- (1) that the land, building, sign, structure, or use is in violation of this Ordinance;
- (2) the nature of the violation, and citation of the Section of this Ordinance violated;
- (3) the measures necessary to remedy the violation; and,
- (4) a notification of owner or occupant's right to appeal.

306.3 Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment, in accordance with the provisions of Article -----, within thirty days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Administrator in the Notice of Violation shall be final.

306.4 Order of Corrective Action. - If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

306.5 Failure to Comply with an Order - If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by State Law. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

307 Responsibility for Violations. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the 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 as provided by N.C.G.S. § 160A-175 or other applicable law and in addition thereto such violation may be enjoined and restrained as provided in N.C.G.S. § 160D-404.

308.1 Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

(A) Injunction - Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(B) Civil Penalties - Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 30-7.5

(C) Denial of Permit or Certificate - The Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

(D) Conditional Permit - The Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the county attorney.

(E) Revocation of Permits - In accordance with Section 30-8.6, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(F) Criminal Penalties - Any violation of this Ordinance shall be a misdemeanor or infraction as provided by N.C.G.S. § 14-4.

(G) State and Common Law Remedies - In addition to other enforcement provisions contained in this Article, the Town Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

### 308.2 Penalties

(A) Penalties - Any person who violates any provisions of this Ordinance shall be subject to assessment of the maximum civil penalty allowed by law.

(B) Notice - No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 30-7.3. If after receiving a notice of violation under Section 30-7.3, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen days of the date of the notice.

(C) Responsible Parties - The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(D) Continuing Violation - For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(E) Demand for Payment - The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

(F) Nonpayment - If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Zoning Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to N.C.G.S. § 14-4.

308.3 Remedies. 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.

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 or other authorized agent may withhold, and the Town Planning Commission or Board of Adjustment may disapprove, any request for permit or development approval or authorization provided for by this Ordinance for the property on which the violation occurs.

D)Injunction and Order of Abatement. The Zoning Administrator, with the written authorization of the Town Administrator, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

E)Abatement of Public Health Nuisance. If the violation is dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by N.C.G.S. § 160A-193, the Zoning Administrator, with the written authorization of the Town Administrator, may remove, abate or remedy the violation and the costs, if not paid, shall be a lien against the property.

309 Establishment of the Planning and Zoning Commission. The Planning and Zoning Commission shall be composed of seven members for matters within the Town of Montreat and for extraterritorial matters. The seven-member Planning Commission shall be composed of five members residing in the Town of Montreat, one member residing in Buncombe County, and one residing in McDowell County. **\*\*Note: No one lives in this part of McDowell County, therefore no member necessary.** Two alternate members shall reside in the Town of Montreat. Members shall serve a term of three years. No member shall serve more than two consecutive terms. When a vacancy occurs on the Board for the member representing Buncombe or McDowell County, the Town shall notify the respective Board of County Commissioners and request an appointment within 90 days. If no appointment is made during that period the Town Board of Commissioners shall fill



the vacancy. All appointments to the Planning Commission shall comply with the requirements of N.C.G.S. § 160D-301.

- 310 Proceedings of the Planning and Zoning Commission. The Planning and Zoning Commission shall elect from the members a chair and a vice-chair who shall serve for one (1) year or until reelected or until a successor is elected. The Planning Commission shall appoint a secretary who may be a municipal officer, an employee of the Town, or a member of the Planning and Zoning Commission. The Planning Commission shall adopt rules for transaction of its business and shall keep records of its resolutions and discussions, findings and recommendations. Such records shall be public records and filed in the Town office. Meetings of the Planning Commission shall be held quarterly, at the call of the chair, and at other times as the Planning Commission may determine. There shall be a quorum of four (4) members for the purpose of taking an official action required by this Ordinance. The alternate member may vote in the absence of a regular member but his/her presence shall not be counted when establishing a quorum. All meetings of the Planning Commission shall be open to the public.
- 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.

- 312 Zoning Board of Adjustment. The Board of Adjustment shall have the authority to rule on matters of interpretation of this Ordinance, consider appeals from decisions of the Zoning Administrator, issue Conditional Use Permits, grant variances and perform other duties as defined in this Ordinance. Any appeal from a decision of the Board of Adjustment shall be subject to review by the superior court pursuant to G.S. 160D-1402.
- 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 County, and one residing in McDowell County. The five-member Board of Adjustment shall be composed of five members residing in the Town of Montreat. Two alternate members shall reside in the Town of Montreat. When a vacancy occurs on the Board for the member representing Buncombe or McDowell County, the Town shall notify the respective Board of County Commissioners and request an appointment within 90 days. If no appointment is made during that period, the Town Board of Commissioners shall fill the vacancy. All appointments to the Board of Adjustment shall comply with the requirements of N.C.G.S. § 160D-302.
- 314 Proceedings of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall elect a chair and a vice-chair from its members who shall serve for one (1) year or until reelected or until their successors are elected. The Board of Adjustment shall appoint a secretary. The Board of Adjustment shall adopt bylaws and rules in accordance with the provisions of this Ordinance and N.C.G.S §160D-406. Meetings of the Board of Adjustment shall be held at the call of the chair and at other such times as the Board may determine. The chair, the vice-chair, or the clerk to the Board may administer oaths according to the procedures adopted in the Board's bylaws and rules. All meetings of the Board of Adjustment shall be open to the public.
- 315 Appeal from the Decision of the Zoning Administrator. All questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator (See also Section 1203 D). A decision of the Zoning Administrator, as used in this section, refers to any final binding order, requirement, or determination made with respect to application of the Montreat Zoning Ordinance. Landowners may provide constructive notice of a final, binding determination by posting a sign on the affected site for 10 days in accordance with **G.S 160A-388(b1)(4).**
- 316 Powers and Duties of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall have the following powers and duties:
- 316.1 Appeals. The Board of Adjustment shall hear and decide appeals from decisions of the Zoning Administrator concerning enforcement of this Ordinance



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and appeals arising out of any other ordinance that regulates land use or development, in accordance with the following:

1. Any person who has standing under G.S. 160D-1402(c) or the Town may appeal a decision to the Board of Adjustment by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.
2. The Zoning Administrator (or other Town official who made the decision) shall give written notice of the decision to the owner of the property that is the 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.

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7. When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160D-1402(j).
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. 160D-405, reverse or affirm wholly or in part, or may modify the decision appealed from and shall make any order, requirements, decision or determination and to that end, shall have all of the powers of the Zoning Administrator.

316.2. Variance. When unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall grant a variance upon showing of all the following:

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.
5. The variance requested is the minimum variance that will make possible the legal use of the land, Building or Structure.
6. The variance is not a request to permit a use of land, Building or Structure which is not permitted in the Zoning District involved.

The existence of a non-conforming use of neighboring land, Building or Structures in the same Zoning District or of permitted or non-conforming use in other Zoning Districts shall not constitute a reason for granting the requested variance. In granting a variance, the Board of Adjustment shall make written

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findings that all of the requirements listed above have been met. If a variance is granted it shall be the least possible deviation from the requirements of this subchapter. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Article. Violations of the provisions of the variance granted, including any conditions or safeguards, which are a part of the grant of the variance, shall be deemed a violation of this Ordinance. The Board of Adjustment may hear appeals to grant a variance arising out of any other ordinance that regulates land use or development. The ordinance(s) shall also provide consistent, clearly-defined standards to establish findings through the variance process as outlined in this section.

- 316.3 Special Use Permits. It shall be the duty of the Board of Adjustment to hear requests for Special Use Permits and grant said permits in accordance with the guidelines set forth by this Ordinance (See Article VIII).
- 316.4 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. 160D-1402(c)) 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.
- 317.1 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.
- 317.2 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 exists, and any contract to purchase or other relevant document; and
4. A fee set by the Town Board of Commissioners, with recommendations from the Board of Adjustment, which becomes nonrefundable when the Zoning Administrator gives notice to the Chair of the Board of Adjustment that the completed appeal or application has been filed; and any other materials reasonably required by the Chair of the Board of Adjustment.

A. Time of Hearing. The Chairperson will set the date of hearing in accordance with an annual schedule published in January, maintained by the Clerk to the Board of Adjustment. This schedule will be made available to the Zoning Administrator in order that he/she may inform applicants of the current schedule. All cases shall be heard within 60 days.

B. Notice of Hearing. The Board of Adjustment shall mail a notice of hearing (i) to the party whose appeal, application, or request is the subject of the hearing; (ii) to the owner of the property that is the subject of the hearing; (iii) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and (iv) to any other persons entitled to receive notice under this Ordinance. The notice of hearing must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the property that is the subject of the hearing or on an adjacent street right-of-way at least 10 days, but not more than 25 days, prior to the date of the hearing.

318 Decision of the Zoning Board of Adjustment. The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance of any provision of this Ordinance. A majority of the members is required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. The Board of Adjustment shall determine contested facts, make decisions within a reasonable time, and base quasi-judicial decisions on competent, material and substantial evidence in the record. Quasi-judicial decisions of the Board shall be in writing and shall reflect the Board's determination of contested facts and their application to standards found in this Ordinance. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or first-class mail to the applicant, the property owner, and any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

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319 Appeals from Decisions of the Zoning Board of Adjustment. Every quasi-judicial decision of the Board shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. 160D-1402. Any party with standing under N.C.G.S. 160D-1402 may appeal by filing a petition for review. A petition for review must be filed with the clerk of superior court by the later of thirty days after the decision is effective or after a written copy of the decision is given in accordance of Section 1205. When first-class mail is used to 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.

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 with the Zoning Administrator within at least thirty (30) days prior to the Planning and Zoning Commission’s meeting at which the application is to be considered. An application requesting a change in the Official Zoning Map shall include a description of the property in question. Any

communication purporting to be an application for an amendment shall be regarded as mere notice to seek relief until it is made in the required form.

- 2) An application fee as set forth in the Town of Montreat Fee Schedule shall accompany each application and this fee shall be nonrefundable except in any case where the application is withdrawn prior to its consideration by the Planning and Zoning Commission. Provided, that no application fee shall be required for an application submitted by the Board of Commissioners, the Board of Adjustment or any other Town board or commission.
- 3) Once the Zoning Administrator has received the complete application and all other pertinent materials necessary for the consideration of the application, he/she shall forward the application and other materials to the Chair of the Planning and Zoning Commission who shall call for a meeting of the Planning and Zoning Commission to review said application within thirty (30) days of the date the completed application is received by the Chair. The regular meeting of the Planning and Zoning Commission may serve in the place of a called meeting if it falls within the time period set forth in this Subsection below.

C. Hearing by the Planning and Zoning Commission. The Zoning Administrator shall transmit copies of all papers and other data submitted by the applicant on behalf of the amendment request to the members of the Planning and Zoning Commission.

- 1) The Planning and Zoning Commission shall review and prepare a report, including its official recommendation to accept or reject the proposed amendment. The Planning and Zoning Commission shall deliver its written report containing its official recommendation to the Board of Commissioners within ninety (90) days of the date of the meeting at which it considered an application. Failure of the Planning and Zoning Commission to submit recommendations within the ninety (90) day period shall constitute a favorable recommendation.
- 2) The Planning and Zoning Commission shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate.
- 3) All meetings of the Planning and Zoning Commission shall be open to the public. At a meeting, any party may appear in person, by agent, or by attorney.
- 4) 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, 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 abutting that parcel of land shall be mailed a notice of a public hearing on the proposed change by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The person(s) mailing such notices shall certify to the Board of Commissioners that the notices were mailed in accordance with this section, and such certificate shall be deemed conclusive in the absence of fraud.
  - 2) If the proposed change to the Official Zoning Map affects at least fifty (50) different properties, then the Town may elect to mail notices as provided above or may, as an alternative, elect to publish once a week for four successive weeks in a newspaper having general circulation in Montreat an advertisement of the public hearing that shows the boundaries of the area affected by the proposed change to the Official Zoning Map and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of N.C.G.S. §160D-601. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on

the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this ordinance. The person(s) mailing such notices shall certify to the Board of Commissioners that the notices were mailed in accordance with this section, and such certificate shall be deemed conclusive in the absence of fraud. In addition to the published notice, the Town shall post one or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed change in the Official Zoning Map.

- 3) At the public hearing, the Board of Commissioners may adopt the proposed change, reject the proposed change, refer the proposed change back to the Planning and Zoning Commission for further consideration or hearing.
- 4) 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.
- 5) 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.



## ARTICLE IV - ESTABLISHMENT OF ZONING DISTRICTS

400 Establishment of Districts. For the purposes of this Ordinance, the Town of Montreat is divided into Zoning Districts as follows:

R-1: Low Density Residential District  
R-2: Medium Density Residential District  
R-3: Low Density Residential District  
I/R: Institutional/Residential District  
I: Institutional District  
WL: Woodlands District  
TCO: Town Center Overlay District  
RPO: Ridge Protection Overlay District  
CD: Conservation District  
PUD: Planned Unit Development 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 Board of Commissioners of a petition to establish a conditional zoning district:

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

401 District Boundaries. The boundaries of the above Zoning Districts are hereby established as shown on the Official Zoning Map of the Town of Montreat, North Carolina, which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

401.1 The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the Seal of the Town under the words: "Official Zoning Map, Town of Montreat, North Carolina," together with the date of the adoption of the Official Zoning Map.

401.2 If, in accordance with the provisions of this Ordinance and North Carolina General Statutes Chapter 160D, changes are made in District boundaries or other matters portrayed on the Official Zoning Map, such changes shall ~~be caused to be entered on the Official Zoning Map by the Zoning Official~~ Zoning Administrator ~~within seven (7) days~~ promptly after the amendment has been approved by the Board of Town Commissioners.

401.3 No changes of any nature shall be made on the Official Zoning Map or any matter shown thereon except in conformity with the procedures set

forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be void and a violation of this Ordinance.

401.4 The Official Zoning Map shall be located in the office of the Town of Montreat. It shall be the final authority as to the current zoning status of land, buildings, and other structures in the Town.

403 Rules for Interpretation of Zoning District Boundaries. When uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map, the following rules shall apply:

403.1 Boundaries indicated as approximately following the center lines of streets, highways, alleys, or public utility easements shall be construed as following such center lines;

403.2 Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private;

403.3 Boundaries indicated as approximately following the Town Limits shall be construed as following such Town Limits;

403.4 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

403.5 Boundaries indicated as approximately following the center lines of streams, rivers, channels, lakes, or other lines shall be construed as following the center line;

403.6 Boundaries indicated as approximately following topographic elevations shall be construed as following such elevations;

403.7 Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.

403.9 If the boundary location cannot be resolved according to any of the above criteria, the Board of Adjustment shall interpret the intent of the map as to the location of District boundaries.

## ARTICLE V - ZONING DISTRICT REGULATIONS

500.1 Permitted Uses Table - The following table establishes what principal uses will be allowed in a particular Zoning Districts within the Town of Montreat. The uses in this table will be permitted as indicated by the letter P and shall conform to all regulations of the applicable Zoning District. Uses which are not listed in the Table are not permitted in the Town of Montreat.

500.2 When shown with an S asterisk (\*), the use is permitted only as a "Conditional Special Use Permit" and will be approved in accordance with the provisions of Article VIII of this Ordinance. ~~When shown with a double asterisk (\*\*), the use is permitted only as an "Accessory Use."~~

| USE CATEGORY  | PERMITTED USES |     |     |    |   |    |     |    |     |
|---|----------------|-----|-----|----|---|----|-----|----|-----|
|   | R-1            | R-2 | R-3 | IR | I | WL | RPO | CD | TCO |
| <b>RESIDENTIAL</b>  |                |     |     |    |   |    |     |    |     |
| Single Unit Dwelling  | P              | P   | P   | P  |   |    |     |    | P   |
| Two Unit Dwelling (Duplex)  | P              | P   | P   | P  |   |    |     |    | S   |
| Multi-Unit Dwelling   |                |     |     | P  |   |    |     |    | S   |
|   |                |     |     |    |   |    |     |    |     |
| Dormitory   |                |     |     |    | P |    |     |    | P   |
| Family Care Homes   | P              | P   | P   | P  |   |    |     |    | P   |
| Group Care Facility (Nursing Homes, Rest Homes, Congregate Care, and Similar Facilities.) |                |     |     | S  | P |    |     |    |     |
| Manufactured Home, Class A  | S              | S   | S   |    |   |    |     |    |     |
| Manufactured Home, Class B  | S              | S   | S   |    |   |    |     |    |     |
| <b>ACCESSORY USES AND STRUCTURES</b>  |                |     |     |    |   |    |     |    |     |
| Accessory Buildings or Uses   | P              | P   | P   | P  | P |    |     |    | P   |
| Accessory Dwelling Unit   | S              | S   | S   | S  |   |    |     |    | S   |
| Home Occupation   | P              | P   | P   | P  |   |    |     |    | P   |
| Studios   | S              | S   | S   | P  |   |    |     |    |     |
| Swimming Pools, Private   | P              | P   | P   | P  | P |    |     |    | P   |
| <b>PUBLIC &amp; INSTITUTIONAL</b>   |                |     |     |    |   |    |     |    |     |
| Auditorium  |                |     |     | P  | P |    |     |    | P   |

|   |   |   |   |   |   |   |  |   |   |
|---|---|---|---|---|---|---|--|---|---|
| College   |   |   |   | P | P |   |  |   | P |
| Conference Center   |   |   |   | S | P |   |  |   | P |
| Churches  |   |   |   | S | P |   |  |   | P |
| Columbarium   |   |   |   | S | S |   |  |   | S |
| Community Facility  |   | S |   | S | P |   |  |   | P |
| Educational Facility  |   |   |   | P | P |   |  |   | P |
| Libraries, Public   |   |   |   | P | P |   |  |   | P |
| Municipal Government Facilities   |   |   |   | P | P |   |  |   | P |
| Museums, Public   |   |   |   | P | P |   |  |   | P |
| Parks or other Public Recreational Facilities   | S | S | S | S | S | S |  | S | S |
| Public Works Maintenance Facility   | S | S | S | P | P |   |  |   | P |
| <b>Commercial</b>   |   |   |   |   |   |   |  |   |   |
| Bed and Breakfast   |   | S |   | S |   |   |  |   |   |
| Boarding Houses   |   | S |   | S | P |   |  |   | P |
| Bookstore   |   |   |   | P | P |   |  |   |   |
| Camps, Summer   |   |   |   |   |   | S |  |   | P |
| Campgrounds   |   |   |   |   |   | S |  |   |   |
| Convenience Store   |   |   |   | S | S |   |  |   |   |
| Day Care, Home  | S | S |   |   |   |   |  |   |   |
| Day Care Center   |   |   |   | S | P |   |  |   |   |
| Drug Stores and Pharmacies  |   |   |   | S | P |   |  |   | P |
| Eating Establishments (Excluding Drive-ins)   |   |   |   | S | P |   |  |   | P |
| General Merchandise and Sales Retail  |   |   |   | P | P |   |  |   | P |
| Hospitals   |   |   |   | S | S |   |  |   | S |
| Inn   |   |   |   | S | P |   |  |   | P |
| Lodge   |   |   |   | S | P |   |  |   | P |
| Professional Offices, including but not limited to medical, dental, law, or real estate |   |   |   | S | P |   |  |   | P |

|  |  |  |  |   |   |   |   |   |   |
|--|--|--|--|---|---|---|---|---|---|
| Professional Services                            |  |  |  | P | P |   |   |   |   |
| Riding Stables                                   |  |  |  |   |   | S |   |   |   |
| Swimming Pools, Public                           |  |  |  | S | S |   |   |   | S |
| Theaters, Privately Operated                     |  |  |  |   | S |   |   |   | S |
| Theaters, Public Outdoor                         |  |  |  |   | S |   |   |   | S |
| <b>Other</b>                                     |  |  |  |   |   |   |   |   |   |
| Agriculture excluding logging and timber harvest |  |  |  |   |   | P | P | S |   |
| Telecommunication Tower                          |  |  |  |   | S |   |   |   | S |

501 R-1 Residential District.

501.1 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 the area is ~~excluded~~ prohibited.

501.2 Permitted Uses. See Section 500.

501.3 Special Uses. See Section 500 and Article VIII.

501.4 Minimum Lot Area.

501.41 Ten thousand (10,000) square feet for all Single-family Dwellings.

501.42 Fifteen thousand (15,000) square feet for Two-family Dwellings.

501.43 Fifteen thousand (15,000) square feet for other uses.

501.5 Minimum Lot Width. Seventy-five feet (75').

501.6 Minimum Lot Depth. One hundred feet (100').

501.5 Minimum Front Yard. Thirty feet (30').

501.8 Minimum Side Yard.

501.81 Single-family and Two-family Dwelling Units: Fifteen feet (15')

501.82 All Other Uses: Twenty-five feet (25').

501.82 Lots abutting Woodland District: 10 feet (10')

501.9 Minimum Rear Yard. Twenty percent (20%) of the mean lot depth provided that rear yards on lots used for dwelling purposes need not exceed thirty five feet (35').

501.91 Lots abutting Woodland District: 10 feet (10')

501.10 Maximum Building Height. Thirty-five feet (35').

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

501.12 Accessory Buildings. See Section 612 and 500.

501.13 Signs. See Article X.

502 R-2 Residential District.

502.1 Purpose. This Zoning District is established to protect areas in which the principal use of the land is for medium density, single-family, multi-family and group dwellings as well as for the related recreational, religious, and educational facilities normally required to provide for an orderly, 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 prohibited.

502.2 Permitted Uses. See Section 500.

502.3 Special Uses. See Section 500 and Article VIII.

502.4 Minimum Lot Area.

502.41 Eight thousand (8,000) square feet for all Single-family Dwellings.

502.42 Twelve thousand (12,000) square feet for all Two-family Dwellings.

502.43 Twelve thousand (12,000) square feet for all other uses.

502.5 Minimum Lot Width. Sixty feet (60').

502.6 Minimum Lot Depth: One hundred feet (100').

502.5 Minimum Front Yard. Thirty feet (30').

502.8 Minimum Side Yard.

502.81 Single-family Dwellings: Ten feet (10').

502.82 All Other Uses: Twenty feet (20').

502.83 Lots abutting Woodland District: Ten feet (10').

502.9 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').

502.91 Lots abutting Woodland District: 10 feet (10')

502.10 Maximum Building Height. Thirty-five feet (35').

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

502.12 Accessory Buildings. See Section 612 and 500.

502.13 Signs. See Article X.

503 R-3 Residential District.

503.1 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 an 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.

503.2 Permitted Uses. See Section 500.

503.3 Special Uses. See Section 500 and Article VIII.

503.4 Minimum Lot Area.

503.41 Twenty thousand (20,000) square feet for all Single-family Dwellings.

503.42 Thirty thousand (30,000) square feet for Two-family Dwellings.

503.43 Thirty thousand (30,000) square feet for all other uses.

503.5 Minimum Lot Width. Seventy-five feet (75').

503.6 Minimum Lot Depth. One hundred feet (100').

503.5 Minimum Front Yard. Thirty feet (30').

503.8 Minimum Side Yard.

503.81 Single-family and Two-family Dwelling units: Fifteen (15) feet.

503.82 All Other Uses: Twenty-five (25) feet.

503.83 Lots abutting Woodland District: 10 feet (10')

503.9 Minimum Rear Yard. Twenty percent of the mean lot depth provided that rear yards on lots used for dwelling purposes need not exceed thirty-five feet.

503.91 Lots abutting Woodland District: 10 feet (10')

503.10 Maximum Building Height. Thirty-five feet (35').

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

503.12 Accessory Buildings. See Section 612 and 500.

503.13 Signs. See Article X.

504 I/R Institutional/Residential District.

504.1 Purpose. The purpose of the Institutional/Residential Zoning District is to provide for a zone of transition between purely residential and purely institutional Districts or to serve as a residential District to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety, and to provide for protected property values in areas which are predominately residential in character.

504.2 Permitted Uses. See Section 500.

504.3 Special Uses. See Section 500 and Article VIII.

504.4 Minimum Lot Area.

504.41 Single-family Dwellings. Six thousand (6,000) square feet.

504.42 Two-family Dwellings. Ten thousand (10,000) square feet.

504.43 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).

504.44 Ten thousand (10,000) square feet for all other uses.

504.5 Minimum Lot Width.

504.51 Single-family Dwellings. Sixty-five feet (65').

504.52 Two-family Dwellings. Eighty feet (80').

504.53 Multi-family Dwellings. One Hundred feet (100').

504.54 Other uses. One Hundred feet (100') at front Building line.

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

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

504.8 Minimum Side Yard.

504.81 Interior Side. Twelve feet (12').

504.82 Street side at corner lot. Seventeen and one-half feet (15.5').

504.9 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.

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

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

504.121 Like or similar uses abutting each other in different Districts:  
None.



- 504.122 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.
- 504.13 Signs. See Article X.

505 I – Institutional.

- 505.1 Purpose. The Institutional Zoning District is established to permit certain institutional uses as defined in Article V, Definitions, Educational Facility.
- 505.2 Permitted Uses. See Section 500 and Article V, Definitions, Educational Facility.
- 505.3 Special Uses. See Section 500 and Article VIII.
- 505.4 Minimum Lot Area. Seven thousand five hundred (7,500) square feet.
- 505.5 Minimum Lot Width. Seventy-five feet (75').
- 505.6 Minimum Lot Depth. One hundred feet (100').
- 505.5 Yard Requirements.
- 505.51 Adjacent lots within the Institutional District shall have no front, side, or rear yard requirements except that a twenty five foot (25') Building setback shall be required from the right-of-way lines of any adjacent streets.
- 505.52 Lots within the Institutional District and abutting a different Zoning District shall be required to provide a twenty five foot (25') side, rear, and/or front yard on the perimeter facing the different Zoning District.
- 505.8 Maximum Building Height. Sixty feet (60'). All proposed Buildings, other than single family, must be approved by the authority having jurisdiction for fire code enforcement. Structures over 35 feet will require special fire protection systems.
- 505.9 Off-Street Parking and Loading Regulations. See Article IX.
- 505.10 Screening Regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:
- 505.101 Like or similar uses abutting each other in different Districts: None.
- 505.102 Unlike or dissimilar uses abutting each other in same or different Districts: Six feet (6') high closed fence or evergreen vegetation of sufficient density to serve the purpose of a solid fence.
- 505.11 Signs. See Article X.

506 WL - Woodland District. That area outside the high and low pressure water service areas of the Town of Montreat that is indicated as Woodland District on the Official Zoning Map of the Town.

506.1 Purpose. This Zoning District is established to provide for agricultural uses including, but not limited to, grazing and fishing, but because of extremes in topography and soils, is unsuitable for residential, commercial, institutional or related development.

506.2 Permitted Uses. Agricultural uses and enterprises. (See Section 500).

506.3 Special Uses. See Section 500.

505 RPO - Ridge Protection Overlay District. That area extending 500 feet on all sides of the summit of certain ridges in the Town 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 as well as the provisions of the North Carolina Mountain Ridge Protection Act (N.C. G.S. § 113A). In case of conflict between the requirements of this section and any other law or regulation the more stringent provision shall apply.

505.1 Purpose. This Zoning District is established to protect sensitive woodlands on the ridge tops in and around the Flat Creek Basin which contains the Town of Montreat. Special protection is needed in these areas because of their high elevation, steep slopes and susceptibility to erosion that may adversely affect water supplies and aquatic life in the Town. Special protection is also needed to protect and preserve vistas in the Flat 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.

505.2 Permitted Uses. Agricultural uses and enterprises except logging and timber harvest. (See Section 500.)

505.3 Special Uses. None allowed.

508 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.

508.1 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.

508.2 Permitted Uses. See Section 500.

508.3 Special Uses. See Section 500.

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

509 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.

509.1 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.

509.2 Signs. See Article X, Section 1004.9.

## 510 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.

|           |                                     |
|-----------|-------------------------------------|
| 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 otherwise applicable setback and other site specific development standards and requirements of the applicable general use district.

510.1 Purpose. Conditional Zoning Districts are primarily intended to allow for the zoning and development of property in accordance with general use zoning district standards with additional 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 neighboring properties. Zoning petitions to establish a conditional zoning district will be processed in accordance with the provisions of this zoning ordinance for zoning amendments as well as this section. A conditional zoning district classification will be considered only if the application is made by the owner of the property or his/her authorized agent.

510.2. Uses within District. Within a conditional zoning district, only those uses listed as permitted uses in the corresponding general zoning district shall be permitted. Individual conditions and site specific standards are limited to those needed to bring a project into compliance with town ordinances and adopted plans. The applicant shall propose development standards to mitigate the impacts reasonably expected to be generated, especially with regard to property adjacent to the conditional zoning district. Special uses shall require a special use permit as required for the applicable general use zoning district.

#### 510.3 Conditions.

(A) In a conditional zoning district, conditions may specify the uses proposed for the district; the location on the property of the proposed use; the number of dwelling units or other structures; the location and extent of supporting facilities such as parking areas, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of right-of-way and other areas to be dedicated for public purposes; the alteration of streets to mitigate traffic and environmental impacts; use limitations; and other matters the applicant proposes.

(B) In considering a reclassification of property to a conditional zoning district, the Town Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater, the provision of open space, and other matters that the Town Board of Commissioners may find appropriate or the applicant may propose.

(C) Such conditions to approval of the rezoning may include dedication to the Town or State or a recognized legal entity, as appropriate, of any rights-of-way or

easements for roads, water, and sewer or other public utilities necessary to serve 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, including 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, 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 includes the number of units and an outline of area where the structure will be located and appropriate setbacks. For nonresidential uses, this includes the approximate square footage of all structures and an outline of the area where the structures will be located.

(F) The Planning and Zoning Commission and/or Town Board of Commissioners may request additional information as they deem necessary. This information may include:

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

- (2) Existing and proposed topography at foot contour intervals or less.

(3) Generalized information on the number, height, and size or, in especially critical situations, the location of structures.

(4) Proposed number and location of detached signs

(5) Approximate completion time of the project and proposed phasing, if any.

(6) Transportation plan with provisions for internal vehicular, transit, bicycle, and pedestrian circulation and parking.

(7) Conditions proposed to be incorporated in the conditional zoning district.

(G) In approving a conditional zoning district, the Town Board of Commissioners may, impose more restrictive requirements than would otherwise be required by this ordinance and those in the application, as deemed necessary to ensure that the purposes and intent of this ordinance are met.

(I) Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this ordinance. The Zoning Administrator may order the removal of any such condition.

**510.4 Community Meeting.** With respect to the Institutional/ Residential (I/R) and the Institutional (I) districts, the applicant is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. Notice of the meeting shall be provided to owners of property within 250' of subject property, as listed with the Buncombe County Tax Department. Notice may be sent to additional properties by the applicant. At a minimum, the notice shall be sent by standard 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 as 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.

#### 510.5 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. 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, restrictions and regulations provided for in the corresponding general use zoning district, together with such changes, standards and conditions imposed by the Town Board of Commissioners.

(F) If an application is approved, only those uses and structure indicated in the approved application and exhibit map/schematic plan shall be allowed on the subject property. A change of location of any structures may be authorized pursuant to applicable provisions of the ordinance.

(G) Following the approval of a rezoning application for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation.

(H) Any approved conditional zoning district shall have vested rights.

#### 510.6 Alterations to Approval.

(A) Except as provided herein, changes to an approved conditional zoning district or to the conditions attached to the approval shall be treated the same as a new application for a conditional zoning district and shall be processed in accordance with the original procedures.

(B) The Planning and Zoning Commission shall have the authority to approve an administrative change to an approved conditional zoning district application. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved plan or its conditions and that the change does not have a significant impact upon abutting properties. Changes that increase the density of nonresidential development up to 10% of the approved building square footage, but not more than 5,000 square feet, may be considered. For residential development, increases in density are not allowed as an administrative change.

(C) The Planning and Zoning Commission shall always have the discretion to decline to exercise this delegated authority if it believes a requested change should be deemed a rezoning application requiring a public hearing and Town Board of Commissioners approval under the circumstances. If the Planning and Zoning Commission declines to exercise this authority, then the applicant may only file a rezoning application in accordance with the applicable provisions of this Ordinance.



511 Lot Requirements Summary Table.

| Zoning District<br>and Use   | Minimum Lot Dimensions |                 |                 | Minimum Yard/Setback  |                 |                |
|--|------------------------|-----------------|-----------------|---|-----------------|----------------|
|  | Size<br>(sq. ft.)      | Width<br>(feet) | Depth<br>(feet) | Front<br>(feet)   | Side<br>(feet)  | Rear<br>(feet) |
| <b>R-1</b>   |                        |                 |                 |   |                 |                |
| Single Family,<br>Group  | 10,000                 | 55              | 100             | 30  | 15              | **             |
| Two Family   | 15,000                 | 55              | 100             | 30  | 15              | **             |
| Other uses   | 15,000                 | 55              | 100             | 30  | 25              | **             |
|  |                        |                 |                 |   |                 |                |
| <b>R-2</b>   |                        |                 |                 |   |                 |                |
| Single Family,<br>Group  | 8,000                  | 60              | 100             | 30  | 10              | **             |
| Two Family   | 12,000                 | 60              | 100             | 30  | 10              | **             |
| Multifamily*   | 20,000                 | 60              | 100             | 30  | 20              | **             |
| Other uses   | 12,000                 | 60              | 100             | 30  | 20              | **             |
| Side and rear yard setbacks for lots in R-1, R-2, and R-3 District abutting Woodland District: 10 feet (10') |                        |                 |                 |   |                 |                |
| <b>R-3 (septic)</b>  |                        |                 |                 |   |                 |                |
| Single Family  | 20,000                 | 55              | 100             | 30  | 15              | **             |
| Two Family   | 30,000                 | 55              | 100             | 30  | 15              | **             |
| Other uses   | 30,000                 | 55              | 100             | 30  | 25              | **             |
| <b>I/R</b>   |                        |                 |                 |   |                 |                |
| Single Family  | 6,000                  | 65              | 100             | 25  | 12/15.5         | 25             |
| Two Family   | 10,000                 | 80              | 100             | 25  | 12/15.5         | 25             |
| Multifamily***   | 15,000                 | 100             | 100             | 25  | 12/15.5         | 25             |
| Other uses   | 10,000                 | 100             | 100             | 25  | 12/15.5         | 25             |
|  |                        |                 |                 |   | interior/corner |                |
|  |                        |                 |                 |   |                 |                |
| <b>I</b>   |                        |                 |                 |   |                 |                |
| All permitted uses   | 5,500                  | 55              | 100             | N/A - 25' from street right-of-way<br>and when adjacent to a different<br>Zoning District |                 |                |

\* 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.

512 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 the PUD district. The Official Zoning Map shall identify the area covered by each PUD district.

- (1) All uses that are set out in the approved PUD Master Plan shall be treated as a permitted use within the district.

- (2) Except as otherwise provided by the adopted PUD Master Plan, property within an approved PUD shall be subject to all applicable regulations, subdivision plan approvals, site plan approvals, and other permits and approvals required by Town ordinances.
- (3) There is no minimum acreage required. However, the size of the PUD shall be evaluated by the Planning and Zoning Commission as warrants the location of the specific proposal.
- (4) The PUD Master Plan shall identify the total number of residential units and the maximum square footage for non-residential uses. The form for presenting these quantities shall be clearly presented and easy to track. If the measure used includes density, gross density is the applicable standard.
- (5) Development standards established by the approved PUD Master Plan shall be the applicable development standards within the PUD. Such standards shall include, but are not limited to, building height, building separations, building setbacks, parking requirements, lot size, yard, buffer and landscape requirements or other dimensional standards.
- (6) Development of property within a PUD is subject to all applicable Town regulations such as: subdivision plan approvals, site plan approvals, and other permits and approvals required by Town ordinances. The installation of transportation infrastructure shall be required in developing areas of the PUD as needed to serve that portions of the PUD.

D. Procedure

- (1) A PUD zoning district shall be established through the process for rezoning property pursuant to the procedures for amendments as set forth in Article -- of this ordinance.
- (2) A pre-application meeting with the appropriate Town staff is required prior to formal submission of the application.

E. Requirements

- (1) Submittal of an application to rezone property to a PUD shall include submission of a Planned Unit Development District Master Plan (PUD Master 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. the location of known historic structures or sites within the PUD;
- e. a recreation and open space plan(s) that includes the locations and standards for open space and recreation areas within the PUD;
- f. a boundary buffer plan showing transition treatments between the proposed PUD and adjacent properties;
- g. a plan for development phasing within the PUD.

(3) In addition the applicant may choose to include other items or plans. The elements of the PUD Master Plan may be presented in various forms and can include a combination of text and illustrations. The form(s) chosen shall clearly illustrate the elements of the PUD Master Plan being presented.

(4) The Town Administrator or Town Council may require a Traffic Impact Analysis (TIA) to be conducted by the applicant and submitted as part of the rezoning application.

- (5) A mix of land uses and/or residential character types may be included in the PUD zoning district. The PUD Master Plan shall identify how uses will be mixed within the PUD. Uses may vary for and within areas or phases of the PUD and it is acknowledged that the mix of uses may need to change over time.

F. Recreation Areas and Open Space

(1) General Requirement

The location and proposed amount of open space and recreation space shall be identified in the PUD Master Plan. The open space within a PUD may contain areas for both active and passive uses. The PUD Master Plan shall consider adopted Town plans for greenways, recreation space, and open space, but may propose revisions, alternatives, and/or clarifications to this plan.

(2) Conservation and/or Preservation Areas

The PUD Master Plan shall provide for utilization of portions of the PUD that are subject to conservation easements or otherwise set aside for preservation, open space and/or recreation.

(3) Management of Recreation Areas and Open Space

Because these areas may be placed under the control of a public entity such as the Town, or a private entity, such as a property owners association or the Montreat Conference Center, the PUD Master Plan shall identify which area are to be public and which are to be private. The PUD Master Plan shall include a management plan for those areas that will be privately controlled addressing long-term maintenance responsibility for these areas.

G. Landscaping and Buffers

(1) Compliance with General Landscaping Requirements

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.

## ARTICLE VI – DEVELOPMENT PROVISIONS

600 Use. No Building, Structure or land shall hereafter be used or occupied and no Building or Structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the Zoning District in which it is located.

600.1 No part of a yard, off-street parking or loading space, or other open space required in connection with any Building for the purpose of complying with this Ordinance shall be used and included as part of a yard, open space, or off-street parking or loading space similarly required for any other Building.

600.2 Rights-of-way or access easements shall not be considered a part of a lot or open space, or front, side, or rear yard for the purpose of meeting yard requirements.

601 Lot Reduction Prohibited. No yard or lot existing at the time of the passage of this Ordinance shall be reduced in dimension or area below the minimum requirement set herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set by this Ordinance.

602 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 does not have legal and physical

vehicular access to a dedicated and accepted public Street or to a platted roadway connected to a public Street.

For any lot that does not abut a public Street or, in the case of the Extraterritorial Jurisdiction for any lot that does not abut a public Street or platted roadway, no Building, Structure or Use of land shall be established on such lot unless it has a legal easement connecting such lot with a public Street, which easement must:

1. Have a minimum width of twelve feet (12’):
2. Be physically passable for vehicular traffic; and
3. Be an easement of record and appurtenant to the lot for which it provides access.

If the Street or platted roadway providing access to a proposed development does not meet the Town street standards for public streets, the developer shall make the necessary improvements to bring the street or road up to such Town standards.

603 Minimum Lot Area. The minimum lot area shall be as specified in Article V for each Zoning District. In areas not served by a public or community sewer system, the minimum lot area shall be determined by the Buncombe County Health Department. This minimum lot area shall be that necessary for safe on-site waste disposal system, but in no case, shall the lot be smaller than the required area for the Zoning District in which it is located.

604 Height and Density. No Structure shall hereafter be erected or altered so as to exceed the density and height regulations of this Ordinance for the District in which it is located.

605 One Principal Building Per Lot. Every Building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one (1) Principal Building and its Accessory Buildings on the lot.

606 Accessory Buildings and Uses.

606.1 General Requirements.

- 1) Accessory buildings shall not be used as a dwelling unit.
- 2) In residential zoning districts, no more than two (2) accessory buildings or uses shall be permitted per lot.
- 3) Accessory buildings larger than six hundred (600) square feet including entrance and/or outside covered areas and/or exceeding ten (10) feet in height at eave line shall be permitted by Special ~~Conditional~~ Use permit only.
- 4) Accessory buildings or uses must meet the minimum setbacks required by the respective zoning district. Garages shall be located only in the side or rear yards, unless as permitted in Section 606.2, and must meet the minimum setbacks required by the respective zoning district except under the provisions found in Section 612.2.

- 5) Accessory buildings with any dimension greater than twelve feet (12') must meet the provisions of current NC State Residential Building Code.

606.2 Garages in Front Yard. A residential property owner may apply for a Special Use Permit to build a garage within the front yard setback subject to meeting all the following conditions:

- 1) The Zoning Administrator determines this will reduce damage to the natural topography, trees and natural green space, or where the topography will create a hardship that would result in significant damage to the topography, trees and plant life without such relief;
- 2) The materials used, meet or exceed the quality and appearance of the principal residence.
- 3) The garage must be enclosed by an operable garage door to be maintained in good working order, excluding carports.
- 4) The garage doors shall be kept closed when the house is unoccupied for more than one day; and
- 5) The property owner agrees to maintain the garage and its appearance to reasonably remain in the condition it is in when completed and approved by the Building Inspector. The Zoning Administrator shall determine when this provision has been violated.

606.3 Portable Storage Container. In addition to meeting the general requirements found in Section 606.1, portable storage containers shall meet the following conditions:

- 1) Portable storage containers shall not be located or placed within any easements or street rights-of-way, without the expressed permission and authorization of the Town.
- 2) Portable storage containers are to be used for storage incidental to the principal use on the same lot. Storage containers shall not be used for retail sales or any other principal use.
- 3) A portable storage container shall be allowed on a property for a continuous period of no more than one hundred and eighty (180) days per twelve-month period. Exceptions to this time limit may be made by the Zoning Administrator to compensate for an act of God.
- 4) In Residential Districts (R-1, R-2, R-3), portable storage containers shall not be more than eight (8) feet in width and not more than twenty-four (24) feet in length.
- 5) For an active construction project in the Institutional/Residential (IR) and Institutional (I) Districts, portable storage containers shall not be more than ten (10) feet in width and not more than forty (40) feet in length and shall be allowed on a property for a continuous period of no more than two hundred and ten (210) days per twelve-month period.



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

- 1) The proposed accessibility improvements shall provide “reasonable accommodations” to avoid discrimination against individuals with disabilities. The intrusion upon the setback will not exceed that which is practically required as determined by the Zoning Administrator.
- 2) Expansion of, or addition to, decks and other appurtenant structures beyond what is deemed necessary by the Zoning Administrator to provide reasonable accommodation for accessibility shall not be permitted.
- 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 Administrator~~ and Town Administrator prior to application for the associated construction permits

605 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. 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.

606 Double Frontage Lots. On lots having frontage on two streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this Ordinance. On lots having frontage on more than two streets, the minimum front yard shall be provided in accordance with the regulations set forth in this Ordinance on at least two of the street frontages. The minimum front yard on the other frontage or frontages may be reduced along the other streets in accordance with the side yard requirements of the Zoning District.

607 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.

608 Nuisances and Hazards at Building Sites. The holder of any Building Permit issued by the Town Building Inspector shall be responsible for maintaining the corresponding construction site free of rubbish, hazards, and unsightly conditions from the beginning of construction until occupancy. The Zoning Administrator (or his or her designee) or the Building Inspector shall determine if a hazardous or unsightly condition exists and notify the holder of the Building Permit of a potential violation of this ordinance. The Town shall begin enforcement action if the situation is not corrected to the satisfaction of the Zoning Administrator within seven (7) days of notification. (For General Nuisances refer to the Montreat Code of General Ordinances, Chapter I, Article I.)

609 Manufactured Homes.

609.1 Purpose. To establish review guidelines for manufactured homes in order to insure that such homes will meet certain specifications and will provide pleasant living conditions while protecting adjacent property.

609.2 Location. Any manufactured home established as a residence within the Town of Montreat after the adoption of this Ordinance may be located on a lot in the R-1 Residential Zoning District. Manufactured homes used as residences on individual lots shall be considered principal uses for the purposes of this Ordinance and shall be subject to the criteria set forth in Section 623.4-5 below.

609.3 Exemptions. Manufactured homes on lots may be exempt from the criteria in Section 623.4-5 providing that a valid Temporary Manufactured Home Placement permit is obtained from the Zoning Administrator. Each permit, when granted, shall be for one (1) calendar month, after which said permit can be renewed provided the below criteria are met.

609.31 When fire, flood, or other natural catastrophe makes an existing single family dwelling uninhabitable, the Zoning Administrator shall allow a manufactured home to be used on the same lot as a temporary residence for a period not to exceed six (6) months.

609.32 During the active construction period of any one-family dwelling, the Zoning Administrator shall allow a manufactured home on the same lot by the owner of the lot for a period not to exceed twelve (12) months or the active construction period, whichever is less.

609.33 During the active construction period of a construction project, the Zoning Administrator shall permit a manufactured home on the same lot for a period not to exceed twenty four (24) months or the active construction period, whichever is less.

609.34 During the active promotion of any residential subdivision the Zoning Administrator shall permit a manufactured home within the development to be used solely for the purpose of a temporary sales office for a period of up to twelve (12) months. The manufactured home may not serve as a residence.

609.4 Classes of Manufactured Homes. For the purposes of this Ordinance, manufactured homes shall be classed as follows: A manufactured home must meet all of the restrictions outlined under a particular class before it may be classified either A, B, or C.

609.41 Class A. This class of manufactured home shall be allowed as a use by right in the R-1 Zoning District. In order for a manufactured home to be placed within this class, it must adhere to the following standards:

- 1) The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;
- 2) The unit must comply with the appearance criteria set forth in Section 623.5; and
- 3) The unit must not exceed a length to width ratio of 3:1.

609.42 Class B. This class of manufactured home shall be allowed as a Special ~~conditional~~ use in the R-1 Zoning District. In order for a manufactured home to be placed within this class, it must adhere to the following standards:

- 1) The unit must comply with National Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development;
- 2) The unit must comply with the appearance criteria set forth in Section 623.5; and
- 3) The unit must not exceed a length to width ratio of 4:1.

609.43 Class C. This class shall not be allowed in the Town of Montreat, except for use by a temporary business as outlined in Section 623.34 above, and shall include all manufactured

homes which cannot be classified as either Class A or Class B manufactured home.

609.5 Appearance Criteria. Class A and Class B manufactured homes must meet the following criteria. Before issuing a Certificate of Occupancy for a Class A or a Class B manufactured home, the Zoning Administrator must certify the home meets the following appearance criteria.

609.51 Chassis Removal. The home shall have wheels, axles, transporting lights and towing apparatus removed.

609.52 Foundation. A continuous primarily masonry foundation, unpierced except for required ventilation and access shall be installed under all elements of the Structure. Footings for walls shall be below the frost line. The ground surface below the foundation shall be protected with a poly vapor barrier. Installation shall include a positive surface water drainage away from the home.

609.53 Roofing. The home shall have a pitched roof and the roofing material must be compatible with residential construction within the area in which it is located.

609.54 Exterior Finish. The exterior materials shall be of a color, material, and scale comparable with those existing in residential construction within the area which it is located and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint. Siding, trim, and features should be compatible with those existing in residential construction within the area in which it is located.

611 Regulations for Cut and Fill Slopes. Cut and fill slopes shall not exceed a 1:1 cut and 1.5:1 (horizontal distance: vertical distance). However, if stable exposed rock is the intended result, the cut and/or fill slope may be increased with approval of the Zoning Administrator and supporting recommendation from a North Carolina-registered professional engineer

613 Drainage. A culvert of sufficient capacity or other means of drainage to control storm water runoff is required for each driveway or roadway connected to any public or private road in the Town of Montreat. Consultation is required with the Public Works Director regarding the type, material, placement, and method of installation of each such drainage facility. Written plans for drainage will be submitted to the Zoning Administrator for zoning compliance approval.

613.1 Sedimentation Control. All land disturbing activity is to be planned and conducted so as to prevent off-site sedimentation and storm water runoff damage.

614 Agricultural Uses. Agricultural enterprises are allowed in certain Districts in the Town (see Section 700). Such uses are allowed with the understanding by the Town that the land will be managed in such a way as to generate no off-site adverse effects such as sedimentation or other water pollution. As a general rule, grazing a horse on less than two acres is likely to produce such adverse effects. The Town Zoning Administrator is authorized to investigate reports of adverse off-site impacts of any land use and to report such activities to appropriate regulatory agencies.

615 Parking and Storage of Travel Trailers, Campers and Recreational Vehicles.

615.1 Parking on Private Property. No travel trailer, camper or recreational vehicle shall be used as a residence in the Town.

- 1) Exceptions to the requirements of this section shall be made for any visitor of a resident of the Town when the visitor parks the travel trailer, camper, or recreational vehicle on property of the Town resident, with the permission of the resident and for a period not to exceed seven (7) days per year. No more than one such travel trailer, camper, or recreational vehicle occupied by visitors shall be allowed to park on any lot in the Town.
- 2) The provisions of this section shall not be interpreted to prevent the storage or occasional use of a vacant travel trailer, camper, or recreational vehicle at a residence in the Town by the owner of that residence. Occasional use shall mean not more than seven days in succession nor more than four times in a twelve month period.
- 3) No travel trailer, camper, or recreational vehicle shall be offered for rent or lease on a short or long term basis in the Town.

615.2 Parking on Public Property Prohibited. No person shall park a travel trailer, camper, or recreational vehicle for the purpose of overnight habitation on any public property in the Town including but not limited to public streets, street rights-of-way, walkways, sidewalks, parking lots, and any other public area.

616 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.

617 Driveway Connections. To the greatest extent practicable, and unless otherwise approved by the Town, driveway connections to public streets shall be made within the adjacent frontage area described by lines extending perpendicular from the street side to

the nearest property corners. If existing conditions or other factors, including but not limited to excessively steep gradient or stormwater control considerations pose inordinate difficulty for, or preclude, a driveway connection to the public street solely within the frontage area described above, application shall be made to the Board of Adjustment seeking a variance from the provisions stated herein. The variance requirement shall be waived if an easement is granted by the neighboring landowners(s) permitting driveway access through the grantor's lot.

## 620 Fences.

620.1 No fence shall be located, constructed or maintained in such a way as to obstruct the view of motorists or pedestrians using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.

620.2 Electrically charged fences and other sharp metal or glass fences are prohibited.

620.3 Barbed wire fences are allowed only for special security or safety needs (such as high towers, electrical high-voltage site, hazardous equipment, etc.) The barbed wire will be higher than six (6) feet, constructed of no more than three (3) strands and will project over the projected property on the interior side. Otherwise, barbed wire fences are prohibited.

## 621 Standards for Individual Uses

### **PLACE HOLDER**

## 623 Regulations for Special Use Permits

A. The development standards listed herein are additional to other requirements in this Ordinance. These development standards are use- specific and apply to those uses requiring approval of a Special Use (designated with a 'S' in the Table of Permitted Uses, Section 5.2). Such uses shall be subject to these standards as well as any additional standards or conditions required by the Special Use Permit.

## **ARTICLE --: SPECIAL USES PERMIT**

### **SECTION 100-1 - OBJECTIVES AND PURPOSE**

----.1 Objectives and Purpose: Permitted Special Uses add flexibility to the Zoning Ordinance. Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, uses of property, which would otherwise be

undesirable in certain districts, can be developed to minimize any bad harmful effects they might have on surrounding properties.

----.2 The uses for which Special Use Permits are required are listed in the Table of Permitted Uses.

## **SECTION -----2 - PROCEDURES FOR SPECIAL USE PERMITS APPROVED BY THE BOARD OF ADJUSTMENT**

**2.1** A Special Use Permit may be issued by the Zoning Administrator after approval by the Board of Adjustment for the uses as designated in the Table of Permitted Uses, ----- . All applications for Special Use Permits shall be submitted in accordance with application requirements. Once the application has been determined complete, the Zoning Administrator shall schedule a Public Hearing.

The Board of Adjustment shall hold a public hearing prior to rendering a decision on the Special Use Permit, and if approved, shall include approval of such plans as may be required. In approving the permit, the Board of Adjustment shall find:

- (A) That the use will not materially harm the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (B) That the use meets all the required and applicable development standards and conditions;
- (C) That the use will not substantially injure the value of adjoining or abutting property; and,
- (D) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located,
- (E) and be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat.

### **--.2 Public Hearing**

Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to other persons as may be required or necessary. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently



post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

- (A) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties or any portion of properties within 250 feet of the property involved in the permit request.
- (B) The Zoning Administrator shall also post a notice sign(s), at least one calendar day week (with exception of holidays) prior to the public hearing, on the property affected and/or in the vicinity stating the information included (A) above.
- (C) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the Board of Adjustment's intention that no failure to comply with any of the notice provisions (except those set forth in subsection 110-2.2-A) shall render any permit request invalid.
- (D) At the conclusion of the public hearing, the Board of Adjustment may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
- (E) The Board of Adjustment is not required to take final action on a Permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.
- (F) Subject to subsection -----, the Board of Adjustment, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:
  - (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
  - (2) The application is incomplete; or
  - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.



(G) Even if the Board of Adjustments finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially harm the public health or safety; or
- (2) Will substantially injure the value of adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land development plan or other plans officially adopted by the Town Council.

(I) The burden of presenting a complete application to the Board of Adjustments shall be upon the applicant. However, unless the Board informs the applicant at the hearing in what way the applicant is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete. Once a completed application has been submitted, which shall include a presentation by the applicant, if competent, material and substantial evidence that the applicant has complied with the requirements of the ordinance, made a "prima facie" (based on immediate impression) case with respect to use, specific findings, and is entitled to a permit, the burden of presenting competent, material and substantial evidence "contra" to the application rests with those parties opposed to the application.

(J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subsection (H) rests on the party or parties urging that the requested permit should be denied.

**---2.3** In approving the Special Use Permit, the Board of Adjustment may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious and with the spirit and intent of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the Special Use Permit is granted and also onto the Special Use Permit and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the Special Use Permit, the heirs, successors and assigns. In order to ensure that such conditions and

requirements of each Special Use Permit will be fulfilled, the petitioner for the Special Use Permit may be required to provide physical improvements required as a basis for the issuance of the Special Use Permit.

-----2.4 While considering Said Application, the Board of Adjustment may request technical reports from experts and analysis from government agencies.

-----2.5 If the Board of Adjustment denies the Special Use Permit, the reasons therefore shall be entered in the minutes of the meeting at which the permit is denied.

-----2.6 In addition to the specific conditions required and whatever additional conditions the Board of Adjustment deems to be reasonable and appropriate, Special Uses shall comply with the height, yard, area and parking regulations of the zone in which they are located.

-----2.7 In the event of failure to comply with the plans approved by the Board of Adjustment, or with any conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificate of Occupancy/Compliance under the Special Use Permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a use as permitted by the zone in which the property is located.

-----2.8 Where plans are required to be submitted and approved as part of the application for a Special Use Permit, modifications of the original plans may be made by the Board of Adjustment.

#### 623.1. Accessory Dwelling Units

##### Purpose

The purpose of an accessory dwelling unit is to:

- (a) Provide flexible housing options for residents and their families:
- (b) Integrate affordable housing into the community with minimal negative impact:
- (c) Provide elderly citizens with the opportunity to retain their homes and age in place.

##### Standards

1. An accessory dwelling unit shall be located only on a residential lot containing one single-family detached structure. The residential lot may contain other accessory structures as provided in this ordinance.
2. Only one accessory dwelling unit shall be permitted per lot.
3. Accessory structures shall not exceed the height of the principal structure.
4. The accessory dwelling shall meet the appropriate setbacks.
5. The accessory dwelling shall be clearly subordinate to the main structure.

6. The accessory dwelling unit must contain complete kitchen facilities including a stove or cook top and a full bath including lavatory, water closet, and tub or shower (or combination).
7. At least one parking space shall be provided in addition to those required for the principal dwelling.
8. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for use as an accessory dwelling.
9. An accessory dwelling unit shall be occupied by no more than four (4) persons.

#### 623.2. Home Occupation

- 1) No person other than members of the family residing on the premises shall be engaged in such occupation; except one non-resident employee may work in the home 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) non-illuminated sign, not exceeding a four (4) square foot area.
- 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 setback.

### **ARTICLE IX - PARKING AND LOADING REGULATIONS**

*(Revised 6/14/2001); (Revised 11/14/2002); (Revised 9/10/2009)  
(Revised 1/14/2010); (Revised 1/10/2013); (Revised 07/\_\_\_/2020)*

#### 900 Parking Regulations.

900.1 General Statement. The Town of Montreat is a unique community that features and includes: (i) a conference center; (ii) a college, (ii) inns, (iii) gymnasiums, playgrounds, tennis courts and other athletic and recreational facilities; (iv) scenic areas and trails; (v) offices and other supporting facilities; and (vi) residential areas for single and multi-family use, dormitories and apartments (collectively the “Usages”). Many of these facilities and the parking lots, spaces, structures and facilities that support them have existed for decades and it would be difficult and expensive for the owners and/or

operators thereof to add or reconfigure onsite and offsite parking beyond that which is presently in use and serving such facilities. Therefore, it is the intention of the Town of Montreat that as to all of the present Usages, the parking serving such Usages be deemed to be conforming to the maximum extent, and only with respect to construction of additional structures or substantial expansion, modification or alteration of existing Usages, will additional parking be required and in such cases the provisions of this Ordinance shall apply. It is also noted that in many cases parking facilities for conference center and college buildings can be combined to support more than one facility or Usage, instead of new or additional spaces being required for each separate building or facility. It is the intention of the Town of Montreat that Off-Street Parking areas shall be required at the time of initial construction of any new Building or at the time of any expansion of an existing Building that produces an increase in dwelling units, guest rooms, floor area, seating or bed capacity, or when a conversion in use occurs. Such off-street parking areas shall be provided and maintained in accordance with the requirements set forth herein.

The requirement for additional off-street parking areas to supplement existing parking shall apply to new construction or modifications to existing Buildings resulting in increases in area or changes in use or occupancy classification.—The requirement for additional parking shall be based upon the increased area or change only and related solely to the need for increased parking resulting from the increases in area or changes in use or occupancy classification.

901 Parking Area Construction Standards. With the exception of Sections A and F below, single- and two-family residential uses shall be exempt from the parking area construction standards unless specifically referenced. As stated in Section 900.1 above, entrances, parking spaces/areas, aisles or driveways in existence prior to adoption of this Ordinance which do not meet the specific provisions contained herein shall nevertheless be considered to be conforming, and may be continued or maintained.

- A. Parking Space Requirements. For the purpose of this Ordinance, parking space dimensions (other than those designed to be handicap accessible) shall be as follows:
  - 1. A standard car parking space is nine feet (9') wide and eighteen feet (18') long.
  - 2. A compact car parking space is eight feet (8') wide and sixteen feet (16') long.
  - 3. Parallel parking space dimensions shall be a minimum of eight feet (8') wide and twenty feet (20') long.
- B. Entrances (sometimes "Aisle") and Driveway Widths. No two-way entrance aisle or driveway shall be greater than twenty-four feet (24') wide. In no event shall an entrance be greater than twelve feet (12') for one-way traffic.

C. Surfacing.

1. All vehicular parking spaces shall be constructed of durable, dustless surface as defined herein unless otherwise approved by the Zoning Administrator and shall comply with the remaining requirements of this section for durable, dustless surfaces.
2. The installation of a durable, dustless surface may be temporarily delayed upon approval of the Zoning Administrator whenever it can be shown by the property owner or developer that the permanent size, shape or location of the parking area cannot be determined until the construction of a Building or permanent development of the property is completed. In those instances where a nondurable, non-dustless surface is approved, such surface shall at all times be maintained in good condition and free of ruts, potholes and vegetation. Failure to properly maintain such area shall be sufficient cause for the Zoning Administrator to require the owner to construct a durable, dustless surface.
3. For the purposes of this Section, a durable, dustless surface shall be constructed of concrete, asphalt, macadam, brick or similar material or special paving brick or block or structural grid material of such design as to permit the passage of water freely through the brick or block or permit the cultivation of grass within the voids thereof.
4. Loose stone or compacted stone without a suitable bonding agent may be acceptable as a durable, dustless surface if incorporated as part of an approved engineered pervious surface designed to accept the associated vehicular loads.

- D. The Town of Montreat encourages Low Impact Development (LID) and other innovative stormwater management techniques. Conventional curbing may be waived by the Town if alternative designs are approved and incorporated to encourage sheet flow drainage into pervious areas, or otherwise designed as part of an overall engineered stormwater retention/treatment system. All non-exempt residential and non-residential paved parking areas not utilizing approved alternative techniques shall be curbed using a standard curb with a minimum width of ~~4'-6"~~ 6" and may include a horizontal drain support/gutter having a minimum width of one (1) foot.

Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or allow vehicles to strike against or damage any wall, vegetation, utility, or other structure. Such off-street parking areas shall be provided and maintained in accordance with the requirements set forth herein.

- E. Markings and Signage. All non-exempt residential and non-residential paved parking spaces/areas shall be clearly delineated and identified by use of reflective paint, signage or other durable surface treatment as approved by the Town. Signage shall be Engineering Grade Prismatic (EGP) reflective finish designed in compliance with the current effective Manual on Uniform Traffic Control Devices (MUTCD) available for review at the Town Services Office. Accessible spaces for use by persons with disabilities shall be provided in conformity with the current effective North Carolina State Building Code and ADA standards. Compact car, bicycle, and other special-use parking spaces, if constructed or erected, shall be clearly identified and located to facilitate use by residents and/or the public.

Parking areas shall be constructed with a well-maintained traffic directional system and proper drainage.

- F. Stormwater Management. All newly-installed parking lots, regardless of surfacing, shall retain stormwater onsite or direct flows to systems designed to effectively remove pollutants and promote infiltration and recharge of the subsurface aquifer.
- G. Landscaping. Landscaping requirements are set forth in Section 631 of this Ordinance Code.
- H. Permitted Slope. With respect to new construction: (i) no grade within a commercial or institutional parking area (excluding portions thereof used for driveway purposes) shall exceed sixteen percent (16%) slope; and (ii) residential parking areas shall not exceed twenty percent (20%) maximum grade. Driveway areas that exceed 20% slope and/or which do not provide adequate turnaround width for parked vehicles shall not be included in calculation of required parking spaces. Accessible parking spaces, as defined by the current effective North Carolina State Building Code and ADA standards shall not exceed a surface slope of two percent (2%) at any point.

902 Off-Street Parking Space Requirements. Off-street parking space shall be provided for uses listed below as specified.

- A. Single and Two Family Residential; Multi-Family Dwellings. The total number of required parking spaces for residential structures shall be calculated by considering heated square footage as follows: Two (2) spaces required per Dwelling Unit up to 2500 square feet. One (1) additional space required for each additional 1000 square feet or portion thereof above 2500. For existing residential structures as of the date of adoption of this Ordinance, one (1) additional parking space shall be required for each 1000 square feet (or portion thereof in excess of 500 square feet) that is added to the structure. By way of example, if 500-1499 square feet is added, one (1) additional space is required; if 1500-2499 square feet is added, two (2) additional spaces are required.

- B. Bed and Breakfasts and Boarding Houses, and Hotels. A minimum of one (1) standard car parking space for resident owner or manager is required, and a minimum of one (1) standard space per Dwelling Unit or rooming unit. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact car spaces.
- C. Dormitories. One (1) standard space is required per each two (2) persons in the dorm based on full occupancy. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact spaces.
- D. Other Occupancies/Uses. One (1) standard space is required per 1,000 square feet of gross floor area. Ten percent (10%) of the total number of required standard spaces may be met through installation of compact car spaces.

903 Bicycle Parking. Providing for bicycle parking is encouraged but not required.

904 Shared Parking. Shared parking may be approved under the following conditions:

- A. Adjacent parking areas serving non-residential buildings must be interconnected.
- B. Ordinarily only two (2) facilities/buildings that meet the conditions stated in this section may request shared parking for a given parking lot/area, but the Zoning Administrator may approve shared parking for more than two (2) buildings pursuant to a plan approved by the Zoning Adjustment Board.
- C. Where vehicular access is provided between adjoining non-residential uses and the operating hours of adjoining uses do not overlap, all of the required parking spaces (up to 100%) may be shared. For example, if a church, theater, assembly hall or other use with peak hours of attendance at night or on Sundays, is located next to another use or uses that are closed at night or on Sundays, both uses may be able to take advantage of this option.
- D. If the operating hours of two (2) adjoining non-residential uses overlap five or fewer hours each day, half of the required parking spaces (up to 50%) may be shared.
- E. Where shared parking is being utilized to satisfy the parking requirements for new construction or the expansion of existing facilities/buildings, the owners of the adjoining uses shall have shared parking easements or agreements in place providing them with an enforceable legal right to use the shared spaces as represented to the Town .



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, and as provided for below;

905.1 Parallel parking and/or diagonal parking are 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 new parallel parking or diagonal parking spaces in the I and I/R Districts of Town are subject to review and approval on a case-by case basis by the Town Administrator.

905.2 Residential buildings may meet or contribute to meeting motor vehicle parking requirements with on-street parking if individual driveways are minimized and the fronting street is sized or specifically designed to accommodate the parking needs of residential buildings. On-street parking shall be permitted by the Town Administrator. Owners of residential buildings who use public street parking spaces are subject to the following provisions: (i) their use of public street parking spaces is non-exclusive and continued access by the public shall be maintained; and (ii) no private signage shall be permitted that restricts public use of designated on-street parking spaces or areas.

905.3 Structured Parking. Above or below-ground structured parking shall be permitted in accordance with a plan approved by the Zoning Adjustment Board.

906 Off-Street Loading Regulations.

906.1 Loading Spaces. Every Building, excluding single family, two family and group dwellings, shall provide space indicated herein for the loading and unloading of vehicles off the street. Such space shall have access to an alley or if there is no alley, to a street. Required space shall be considered as follows:

1. Multi-family dwellings with more than ten dwelling units and large group dwellings: One (1) loading space.
2. All other uses: Each applicant shall submit a loading space and driveway plan with data demonstrating the adequacy of the facilities proposed in the plan. The plan is subject to approval of the Zoning Administrator.



## **ARTICLE X - SIGN REGULATIONS**

- 1000 Purpose. The purposes of this Article are: (i) to permit such signs in the Town of Montreat that will not, by their reason, size, location, construction, or manner of display, confuse or mislead the public, obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and (ii) to permit and regulate signs in such a way as to support and complement land-use objectives set forth in the Zoning Ordinance for the Town of Montreat.
- 1001 General Regulations. The following regulations shall apply to all signs in all Zoning Districts:
- 1001.1 Compliance. No sign of any type shall be constructed, erected, painted, posted, placed, replaced, or hung in any District except in compliance with this Ordinance.
- 1001.2 Maintenance. All signs, together with braces, guys and supports shall at all times be kept in good repair. If at any time a sign should become unsafe or poorly maintained, the Zoning Administrator shall send written notice to the owner ~~or lessee~~ of the sign that the sign must be repaired, maintained or removed. Upon failure of the owner to correct such condition within thirty (30) days of such notice, the Zoning Administrator shall proceed with enforcement action pursuant to Section -----.
- 1001.3 Removal of Obsolete Signs. Signs identifying establishments no longer in existence, products no longer being sold, and service no longer being rendered shall be removed from the premises within ten (10) days from the date of termination of such activities. Temporary signs, pole-mounted banners giving notice of seasonal or special events, and political signs shall be removed within two (2) days after termination of the event or election advertised. Upon failure of the owner of these signs to remove such signs within the prescribed time period, the Zoning Administrator shall proceed with enforcement action pursuant to Section .....
- 1001.4 Measurement of Area; Height. Sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof which will encompass the entire advertising copy or art designed to attract attention including borders and other architectural embellishments. Sign height shall be measured from the street grade of the closest point in the street along which the sign is located or the average grade at the base of the sign, whichever is higher, to the highest point of the sign structure.
- 1001.5 Building Code Compliance. All commercial signs shall fully comply with the requirements of the North Carolina State Building Code and National Electrical Code (NEC). A Building permit shall be required

for any projecting sign attached to a Building or structure which has a surface area in excess of six (6) square feet. An electrical permit is required for any internally or externally illuminated sign powered by electrical sources regulated by requirements of the NEC.

1001.6 Sign Setback Requirements. No projecting portion of any free-standing sign may be located closer than two feet (2') to any vehicular or pedestrian traveled way. For the purposes of this Ordinance, house numbers and nameplates shall be exempt from this setback requirement.

1001.7 Illumination of Signs. Unless otherwise expressly prohibited, signs may be illuminated from above at a downward angle provided that lighting directed toward a sign shall be shielded in such a manner as to illuminate only the face of the sign, and shall not project light into any portion of the traveled roadway or toward neighboring Buildings.

1001.8 Sign Permit Required. A sign permit, issued by the Zoning Administrator shall be required for all signs except those specified in **Section 1003 and 1004**. No permit shall be issued until the Zoning Administrator inspects plans for such signs and determines that they are in accordance with the requirements contained in this Article. The fee schedule for sign permits shall be set forth in the Town of Montreat Fee Schedule.

1001.9 Enforcement of Regulations. Any sign constructed after the date of enactment of this Article or any sign maintained in a non-conforming manner shall be subject to the following actions:

1001.10 Notice. The Zoning Administrator shall notify in writing the following persons of the non-conforming sign:

- 1) The owner of the sign;
- 2) The owner of the property on which the sign is located; and;
- 3) The occupant of the property on which the sign is located.

Notice shall be given to the above persons that the non-conforming condition must be corrected within thirty (30) days from the date of notification.

1001.92 Penalties. **Penalties for these requirements are specified in .....**

1001.93 Appeals. Any person having an interest in a sign found to be non-conforming, or the property on which it is located, may appeal to the Board of Adjustment a determination by the Zoning Administrator ordering removal or compliance, as provided in **Article XII** of this Ordinance.

- 1001.94      Removal. If the non-conforming sign has not been removed or brought into compliance with the provisions of this Ordinance within the allotted thirty (30) days and if no appeal has been taken, as specified above, then said sign shall be removed by the Town and the cost of removal shall be billed to the owner of the sign.
- 1001.95      Failure to Pay Removal Costs.      (a) Pursuant to N.C.G.S. § 160A-193, if the Zoning Administrator determines that a sign removed by the Town was dangerous or prejudicial to the public health or safety and the owner of the sign has not paid the costs of removal within 30 days of the billing date, then a lien in the amount of the costs of removal shall be placed on the real property where the removed sign was located, and shall be collected as unpaid ad valorem property taxes. (b) If no determination of danger or prejudice to the public health or safety is made, then the costs of removal shall be collected by the Town in a civil action in the nature of a debt.
- 1002      Prohibited Signs.      The following signs are prohibited, unless otherwise expressly permitted in this Ordinance:
- 1002.1      Signs Constituting Traffic Hazards. Any sign located in a manner or place so as to constitute a hazard to vehicular or pedestrian traffic as determined by the Zoning Administrator.
- 1002.2      Signs in Street Right-of-Way. Any free-standing sign located in a street right-of way or projecting over into a street right-of-way. One house number and/or name plate shall be permissible for each home.
- 1002.3      Signs Obstructing Passages. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any Building.
- 1002.4      Off-Premises Advertising Signs. Billboards and other types of off premises advertising signs.
- 1002.5      Flashing Devices. Any flashing device or sign displaying flashing or intermittent lights or lights of changing degrees of intensity.
- 1002.6      Moving Devices. Any commercial use of moving signs or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere or by electrical or other means, including but not limited to, pennants, flags, propellers, or discs, whether or not any said device has a written message.
- 1002.7      Posted Signs. Any sign posted to utility poles, trees, fences, rocks or other signs. Honorarium Signs meeting the requirements of 1005.25 are not prohibited under this section. House Number and Nameplate Signs meeting the requirements of 1004.6 are not prohibited under this section.

- 1002.8      Copies of Official Signs. Any sign which is a copy or an imitation of an official sign, or which purports to have official status but does not have an official purpose.
- 1002.9      Portable Signs.                      A sign that is not permanent, affixed to a Building, Structure or the ground.
- 1002.10     Roof Signs.    A roof sign is any sign which is affixed to the roof of a Building or Structure.
- 1002.11     Signs Not Permitted. Any sign not expressly permitted elsewhere in this Ordinance.
- 1003    Exempt Signs. The following signs are exempt from the provisions of this Ordinance:
- 1003.1      Governmental Agency Signs.    Signs erected or maintained by a governmental agency to regulate, control or direct traffic including Wayfinding signs, signs indicating bus stops, parking areas, and similar transportation facilities, or signs employed to serve as a directory for services that may be found within the Town. Informational kiosks that provide maps and locational information. Such signs may be illuminated, flashing, or moving as required for public safety. Furthermore, signs erected by a governmental agency which convey information regarding a public service, or the location of a public facility may also be illuminated as necessary.
- 1003.2      Signs Required by Law. Signs erected pursuant to federal, state, or local laws or ordinances.
- 1003.3      Warning Signs.                      Signs which warn of hazards to life, limb, and property such as high voltage electrical equipment, explosives and the like.
- 1003.4      Montreat Conference Center Sign Structure Near Gate. The longstanding Montreat Conference Center sign structure containing approximately five sign positions is exempt as a grandfathered sign structure. Sign panels may be changed as and when necessary. A change in the design or size of the Montreat Conference Center sign structure is subject to approval of the Zoning Administrator.
- 1004    Signs Permitted or Required Without a Permit. The following types of signs shall be permitted in any Zoning District without the issuance of a sign permit provided they meet the stated requirements:
- 1004.1      Temporary Real Estate Signs.                      Temporary real estate signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such signs shall not exceed six (6) square feet in surface area per side. Signs shall not be

illuminated and shall not exceed one (1) per parcel of land unless such land is located at an intersection of two streets; in such a case, two signs shall be allowed, one facing each street.

1004.2      Signs on Window Glass.      Signs on window glass, regardless of size.

1004.3      Private Regulatory Signs.      Private, unofficial regulatory signs not exceeding two (2) square feet in surface area per side, which indicate directions, entrances and exits, available parking facilities, no smoking, control of pets and other similar requirements. Such signs shall be located entirely on the property to which they pertain and shall not contain any advertising message.

1004.4      Construction Signs.      One (1) construction sign per construction project not exceeding sixteen (16) square feet of sign area in residential Zoning Districts or thirty two (32) square feet in the Institutional or Institutional/Residential Zoning Districts, provided that such signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid Building Permit has been issued, shall be confined to the site of construction, and shall be removed five (5) days after completion of construction and prior to occupancy.

1004.5      Public Notice.      Official notices posted by public officers or employees in the performance of their duties.

1004.6      House Number Signs.      Street address numbers must be clearly displayed so that the location can be identified easily from the road. Every property owner of improved property shall purchase and display in a conspicuous place on said property the number assigned.

1004.61      The official address number must be displayed on the front of a Building or at the entrance to a Building which is most clearly visible from the street or road during both day and night.

1004.62      If a Building is more than seventy-five feet (75') from any road or if two or more homes use the same entrance, the address number(s) shall be displayed at the end of the driveway or easement nearest the road which provides access to the Building(s)

1004.63      Numerals indicating the address number shall be at least three (3) inches in height and shall be posted and maintained so as to be legible from the road.

1004.64      Numerals must be of contrasting color to the background. Reflective numbering or placing reflective dots at the sign to direct attention to it is encouraged.

- 1004.65 The Zoning Administrator will have the right to authorize and approve alternate methods of displaying house numbers which meet the intent of this Ordinance when strict adherence to these standards cannot reasonably be met.
- 1004.7 Residential Nameplate Signs. Residential nameplate signs are permitted and may include house numbers. Residential nameplate signs shall not exceed six (6) square feet in area.
- 1004.8 Political Signs. Political signs shall, with the permission of the property owner, be allowed on private property more than five (5) feet from the traveled portion of the roadway, sixty (60) days before and on the date of the election or referendum, and shall be removed within one day after said election or referendum. Political signs are defined as signs for candidates for election or for issues on the ballot, and such signs shall not exceed eight (8) square feet in area per display side. Political signs may not be illuminated.
- 1004.9 Temporary Special Event/Public Interest Signs. Signs providing notice of upcoming events or gatherings of special interest to the public, meeting dates and locations, etc. may be displayed, but only in accordance with the following requirements:
- (a) Such signs shall be no larger than four (4) square feet of surface area per side;
  - (b) Such signs must be located at least two (2) feet from the paved or traveled portion of the road or sidewalk along which they are placed;
  - (c) Such signs shall be placed no earlier than fifteen (15) days before the event to which they refer; and
  - (d) Such signs must be removed no later than two (2) days after the conclusion of the event to which they refer. Signs shall be limited to informational material only; no commercial advertisements or for-profit endorsements shall be permitted.
- 1005 Signs Allowed with Permits. The following types of signs shall be allowed within the Town of Montreat upon the issuance of a sign permit for each proposed sign and subject to the regulations set forth below:
- 1005.1 Signs Allowed in Residential Zoning Districts (R-1, R-2, and R-3). The following types of signs shall be allowed in all of the residential Zoning Districts subject to the accompanying restrictions and the issuance of a sign permit:

- 1005.11 Home Occupation Signs. Each home occupation shall be allowed one (1) sign for purposes of identification. Said sign shall not exceed four (4) square feet of surface area. Signs shall not be illuminated.
- 1005.12 Subdivision Signs. One (1) ground sign per entrance to a subdivision. Said sign(s) shall be no larger than sixteen (16) square feet of surface area per side. Signs shall not exceed six feet (6') in height and may not be illuminated.
- 1005.13 Non-Residential Uses. Non-residential uses permitted as a special use in residential Zoning Districts shall be allowed one (1) freestanding or wall identification sign per street fronted on by the permitted use. Said sign shall be no larger than eight (8) square feet of surface area per side. Signs shall not exceed eight feet (8') in height and shall not be illuminated.
- 1005.2 Signs Allowed in the Institutional/Residential and Institutional Zoning Districts. The following types of signs shall be allowed in the above Zoning Districts for uses permitted in accordance with the special use permitting process or for a use-by-right for that Zoning District subject to the accompanying restrictions and the issuance of a sign permit:
- 1005.21 Ground or Free-Standing Signs. For each Principal Building on a Lot, one (1) ground sign not to exceed the following surface area limitations: Sixteen (16) square feet in surface area per side of sign.
- 1005.22 Wall Signs. For each Principal Building on a Lot located in the Zoning Districts set forth in Section 1005.2: One (1) wall sign located on the street frontage side of the Building not to exceed sixteen (16) square feet. Existing or newly engraved permanent wall signs consisting of chiseled or hewn stone which identify the current use or occupancy of an associated structure are permitted to serve as one (1) allowable wall sign on the street frontage side of the Building. Should the use or occupancy change such that the chiseled or engraved sign no longer serves to indicate the current use or occupancy of the structure, one (1) new wall sign shall be permitted.
- 1005.22 Multi-Tenant Signs. Buildings occupied by two or more tenants, regardless of individual or shared ownership, are permitted to have one (1) free-standing sign on the property on which the Building is located. The maximum size of such free-standing signs shall not exceed sixteen (16) square feet in surface area per side of sign. In addition, each multi-tenant Building shall be allowed one (1) wall sign, per tenant, not to exceed eight (8) square feet of surface area. The sign structure(s) may be designed to allow the addition or removal of copy elements as tenants change in the case of multi-tenant Buildings.



- 1005.23      Buildings Located on Corner Lots. In cases where a Building is located on a corner or double-frontage lot, then said Building is allowed two (2) wall and two (2) freestanding signs - one (1) of each sign type facing each street that borders the lot.
- 1005.24      Honorarium Signs. Honorarium Signs shall be permitted if the size and scale are deemed proportionate to the structure and location whereon displayed. Signs may be located on existing rocks, Buildings or other structures as approved by the property owner. Signs shall be constructed of stone or bronze and securely anchored so as to prevent dislocation by weathering or impact. Signs erected above walkways or other areas of public assembly shall be subject to approval by the Building Inspector for adequate anchorage and structural support.
- 1005.25      Educational Signs. Signs that supply information about people, facilities, natural features or other areas of educational or historical interest shall be permitted as educational signs. Maximum size of such free-standing signs shall not exceed twelve (12) square feet in surface area for pedestal mounted structures.
- 1005.3        Temporary Signs Allowed in All Zoning Districts. In addition to the provisions of 1004.9, temporary signs, flags, or banners advertising the initial openings of businesses, establishments, special events or special sales may be permitted provided the location and duration of such signs is approved by the Zoning Administrator. Such signs may be freestanding or attached to any part of a building, wall, or other structure and said signs shall not exceed 165 square feet in aggregate surface area and shall meet all other requirements. An example of a sign permitted hereunder is with Welcome wall sign hung by Montreat College (approximately 23' x 7') below the wall of the Howerton Building at the beginning of academic quarters.
- 1005.4        Recreational Signs. Sign structures designed to identify the location of, and provide other information concerning, specific recreational features, such as hiking and walking trails and bicycle paths, through maps and trail-head informational displays, are permitted in all zoning districts. Such signs are to be limited to the location of the associated feature(s) and are subject to approval by the owner of the land on which the sign and recreational feature(s) are located. Maximum size of such free-standing signs shall not exceed twenty-four (24) square feet in surface area for multi-base frame structures. Sign structures are to be fabricated of naturally-durable species of wood in the form of logs and roughhewn dimensional timbers that cohere with the adjacent natural setting and location. Sign structures may be allowed with small roof or canopy features to provide weather-protective cover for viewers, subject to



approval by the Building Inspector. Roof coverings shall also be constructed of naturally durable species of wood such as cedar, redwood, black locust or black walnut.

1005.5      Campus Identification and Directive Banners. Banners identifying portions of the Montreat College campus and buildings or locales thereon may be installed on utility poles and other Structures on the campus. The location, sized and duration of such banners must be approved by the Zoning Administrator in his/her reasonable discretion, and shall be subject to the following: (a) the owner of the pole or structure must have consented to the placement of the banner thereon; (b) the maximum banner size is 28.5 inches in width by 6 feet in length; (c) the bottom of the banner must be no lower than 11 feet above the ground surface; and (d) if a pole is located within 3 feet of the back of the street curb, the banner must not be installed on the road side of the pole.

1005.6      Wayfaring Signs. Government agency-owned wayfaring signs are exempt from the provisions of this Ordinance as provided in section 1003.2 above. Privately owned wayfaring signs which do not exceed four (4) square feet in surface area are permitted in all Zoning Districts except R-1, R-2 and R-3, provided the location of such signs is approved by the Zoning Administrator. Privately owned wayfaring signs that are part of a community wayfaring system approved and adopted by the Town may be greater than four (4) square feet in surface area and may be in any Zoning District if and to the extent such is provided for in the ordinance adopting such community wayfaring system. No wayfaring signs other than government agency-owned wayfaring signs may be placed on public rights-of-way or other Town property without obtaining the permission and approval of the Town, which approval or permission may be withheld or conditioned by the Town in its sole and complete discretion. As used in this ordinance, the term "wayfaring sign" means a sign designed and intended to help to direct a person from point to point or confirming a person's progress along a route.

1006      Non-Conforming Signs. Any sign which existed on the date of adoption of this Ordinance, but which does not meet the requirements of the Ordinance shall be deemed a non-conforming sign and may continue to be used, but only in accordance with the following provisions:

1006.1      Maintenance of Non-Conforming Signs. All non-conforming signs shall be maintained in accordance with the requirements of this Article, provided, however, that no repainting of the sign shall alter the design of the sign in any fashion. If the design or dimensions of a non-conforming

sign are altered, the non-conforming sign shall be removed or conformed to this Article at the time of the redesign.

1006.2 Replacement of Non-Conforming Signs. If a non-conforming sign is destroyed by vandals or adverse weather conditions, such sign may be replaced. If it is replaced, it shall conform to the requirements in this Article. Normal weathering does not constitute destruction by adverse weather conditions which would permit replacement of a non-conforming sign. If a sign is allowed to deteriorate, it shall not be replaced under this Section.

1006.3 Relocation of Non-Conforming Signs. A non-conforming sign may be relocated on the same premises on which it is located if the relocation brings the sign into conformity.

1. Removal of Non-Conforming Signs. All non-conforming signs must be removed or brought into compliance with this Ordinance no later than five (5) years after the date of adoption of this Ordinance.

900 Landscaping Requirements.

618.1 Existing Flora. All developers of public and private property shall make every effort to protect and retain existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage-ways, Building foundation sites, private driveways, paths and public walkways wherever possible. Trees are to be protected and preserved during construction in accordance with sound conservation practices. All such trees may be preserved by well islands or retaining walls wherever abutting grades are altered.

901 Purpose

901.1 The intent of this section is to improve the appearance, quality and quantity of landscaped areas that are visible from public roadways and within parking lots, in accordance with the following purposes:

- 1) To assist in providing adequate light and air and in preventing overcrowding of land;
- 2) To provide visual buffering and to enhance the beautification of the Town;
- 3) To safeguard and enhance property values and to protect public and private investment;
- 4) To preserve, protect and restore the unique identity and environment of the Town of Montreat;
- 5) To encourage the preservation of existing trees and vegetation;
- 6) To aid in stabilizing the environment by contributing to the process of air purification, ground water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, and heat reduction;
- 7) To conserve energy; and
- 8) To protect the public health, safety and general welfare of the Town.

901.2 Applicability. The requirements of this Section shall apply to all land zoned Institutional, Institutional/Residential and any proposed Planned Unit Development.

901.3 Landscape Plan Required. The landscape plan as required by this Section shall accompany any request for a Building Permit from or plat approval by the Town of Montreat. No Building Permit shall be issued nor plat approved until the landscape plan is approved by the Zoning Administrator. The Zoning Administrator may request any additional information needed to determine compliance with this Section.

901.4 General Provisions.

619.41 All plant materials used to comply with the requirements of this

Section should be native or appropriate species for this geographic area. A list of recommended species for landscaping is provided in Appendix --.

- 901.5 A temporary Certificate of Occupancy may be issued to a developer/owner if the landscaping cannot be planted at the time the use opens or is re-established due to inappropriate timing for the growing season. A temporary Certificate of Occupancy shall specify the date that the landscaping will be planted. The Building Inspector shall have the authority to revoke the temporary Certificate of Occupancy if the landscaping is not planted by the date specified. The developer/owner shall also guarantee in writing that he/she or his/her successors, shall provide the required landscaping within the time period specified in the temporary Certificate of Occupancy.
- 901.6 Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard.
- 901.7 All landscape planting areas shall be stabilized from dust and soil erosion immediately upon planting and shall be so maintained for the duration of the premises.
- 901.8 The property owner is responsible for maintaining all required plant material in good health.
- 901.9 Credit for Existing Trees. The Zoning Administrator may waive the requirement to provide the new trees required by this ordinance if trees existing on the site are protected and maintained before, during and after construction in accordance with sound conservation practices. If a saved tree dies at any time, it shall be replaced with a tree (or trees) that will provide similar screening or shading.
- 901.10 Exceptions. The Zoning Administrator is authorized to waive specific landscape requirements, or portions thereof, if meeting the requirements will cause insurmountable difficulties for a development proposal.
- 902 Landscape Plan Contents. The landscape plan shall contain the following elements:
- 1) Existing and proposed landscaping;
  - 2) Any screening required by Sections Article VII;
  - 3) Existing and proposed land uses within 200 feet of the site and the zoning of those properties;
  - 4) Existing vegetation intended to be saved under the provisions of 6---.--; and
  - 5) Topographic contours at intervals of not more than five feet, indication of

the direction of storm water flow, and a description of all storm water control facilities.

903 Landscaping Required For All Sites. No less than five percent (5%) of the lot or parcel which is the subject of the required landscape plan shall be landscaped. This requirement may be met with both existing and new plants and trees. This requirement shall be met in addition to any area required for screening, provided that the total area of the site devoted to landscaping shall not be required to exceed forty percent (40%) of the site.

904 Off-Street Parking and Loading Areas. Landscaping shall be required in and around all new or redesigned off-street parking and loading areas. Landscaping shall also be required in and around existing off-street parking and loading areas when a change in ownership occurs. In the case of a change in ownership, the new owner shall have one year to comply with the requirements. Landscaping shall be provided in these areas as follows:

904.1 For parking lots less than 2,500 square feet in parking area, no landscaping is required by this subsection. However the provisions of subsection 632.76 apply to all public parking lots. For parking lots greater than 2,500 square feet in size, the following overall requirements apply:

| Total area of parking lot (square feet) | Percent of parking lot area (square feet)<br><u>that must be landscaped</u> |
|---|---|
| 2,500 to 9,999                          | 5%  |
| 10,000 to 49,999                        | 8%  |
| 50,000 to 149,999                       | 10%   |
|   |   |

904.2 At least 50% of the required parking lot landscaping shall be provided as islands within the parking lot. One planting island is recommended for every 10 to 15 spaces.

904.3 One tree of at least one and one half inch (1½") caliper (measured as the diameter of the tree trunk at four and one-half feet about the ground) and an initial height of at least six feet shall be provided for each fifteen parking spaces. The expected height at maturity of these trees shall be at least eight feet.

904.4 No parking space shall be more than 75 feet from a tree or 100 feet from plantings of more than one tree.

904.5 Shrubs and other types of plant materials shall be used which will complement the tree plantings subject to approval by the Zoning Administrator.

904.6 All public parking and loading areas within 50 feet of a public right-of-way must include a visual screen that meets the following standards:

- 1) At least 75% of vertical plane between the right-of-way and the parking area up to a height of 3 ½ feet shall be screened. Plant materials shall be provided which can reasonably be expected to meet this standard within three years;
- 2) The screen may be composed of vegetated earth berms, plant materials or a combination; and
- 3) No screen is required at parking lot entrances or exits.

1000 **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.

1000.1 **Non-Conforming Lots – Vacant and Improved.**

A Non-Conforming Vacant Lot is any legally established lot upon which no structure is located and which does not meet the dimensional requirements for the district in which it is located. A non-conforming vacant lot which was in existence at the time of adoption of this Ordinance, may be used as a building site without regard for the dimensional requirements of the zoning district in which it is located, but subject to the setback and other requirements of such district.

A Non-Conforming Improved Lot is a lot (a) upon which a structure was located at the time of the adoption of this Ordinance and (b) which does not meet the minimum dimensional and/or setback requirements of the zoning district in which it is located. Such a structure and lot may continue to be used, maintained and renovated to the extent of its existing footprint, notwithstanding the dimensional and setback requirements of this Ordinance, and such a structure may be expanded but only in accordance with all setback and other dimensional requirements of this Ordinance or pursuant to a Variance obtained from the Zoning Board of Adjustment.

1000.2 **Non-Conforming Structures**

A Non-Conforming Structure is a structure which was in existence at the time of adoption of this Ordinance, and which does not meet the minimum requirements of the zoning district in which it is located. Such non-conforming structure may continue to be used, maintained and renovated in accordance with Section 616.3 of this Ordinance, notwithstanding the dimensional and setback requirements of this Ordinance, and may be expanded but only in accordance with all setback and other requirements of this Ordinance or pursuant to a Variance obtained from the Zoning Board of Adjustment.

1000.3 **Maintenance and Repair of Non-Conforming Structures.**

Routine maintenance, repairs, renovations and structural alterations to Non-Conforming Structures shall be permitted as follows:

- (a) Repairs, renovations and structural alterations required by law or ordered by an authorized public officer shall be permitted.
- (b) Routine maintenance, repairs, renovations and structural alterations of Non-Conforming Structures shall be permitted so long as no expansion of the non-conformity occurs as a result of the maintenance, repairs, renovations or alterations.

- (c) A Non-Conforming Structure which is damaged by fire or natural disaster may be repaired subject to the following requirements:
  - a. The square footage of the Structure shall not be increased, and the footprint of the Structure shall not be enlarged;
  - b. The repair of the Structure must be initiated within one year of the date of the fire or natural disaster; and
  - c. The use of the Structure after repair shall not result in a non-conforming use or a change from one non-conforming use to another non-conforming use.

#### 1000.4 **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.