

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE XIII – AMENDMENTS

(Revised 8/14/2008)

- 1300 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.
- 1301 Requirement for Change. When the public necessity, convenience, general welfare, or good zoning practices justify such action, and after the review and report by the Planning and Zoning Commission if required, the Board of Commissioners may undertake the necessary steps to amend the Zoning Ordinance. However, the Board of Commissioners may, in its sole discretion, make changes to the Zoning Ordinance which are necessary (1) to correct typographical errors, (2) to bring the Zoning Ordinance in compliance with any applicable North Carolina or federal law or (3) for which N.C.G.S. § 160A-387 does not require planning agency review. The Board of Commissioners can schedule such amendments for a public hearing under Section 1303 without complying with Section 1302 below.
- 1302 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 Official within at least ten (10) 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 Official 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 Chair of the Planning and Zoning Commission 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) 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.
- 3) No member shall be excused from voting except upon matters involving the consideration of his/her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of compensation and allowances of members of the Planning and Zoning Commission is not a matter of involving a member's own financial interest or official conduct.

1303 Public Hearing by the Board of Commissioners.

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

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

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

- 1) If the proposed change to the Official Zoning Map affects fewer than fifty (50) different properties, the owners (as shown on county tax listing) of the parcel(s) of land affected by the proposed change in the zoning map and the owners (as shown on the county tax listings) of all parcels of land 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. §160A-364. 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, or modify the proposed change and adopt it as modified.
- 4) In the case of a protest against a proposed change signed by the owners of at least twenty percent (20%) either (1) of the area of lots affected by such proposed change, or (2) of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred feet (100') therefrom, or (3) of those directly opposite thereto, extending one hundred feet (100') from the street frontage of such opposite lots, then such amendment shall not become effective except by favorable vote of three-fourths of all members of the Board of Commissioners.
- 5) Following final action by the Board of Commissioners, the Zoning Official 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 Official has failed to make the appropriate changes.
- 6) The Board of Commissioners shall not reconsider a proposed change to the Official Zoning Map if such change is for the same property or portion thereof, for a period of one (1) year from the date of final determination of

the prior request. This waiting period may be waived by a three-fourths vote of the Board of Commissioners if it determines that there may have been substantial changes in conditions or circumstances which may relate to the request.