

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE VI - GENERAL PROVISIONS

(Revised 3/08/2001)

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Revised (9/10/2009)

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

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 including recommendations pertaining to amendments to this Ordinance and other matters as designated by Articles XI and XIII of this Ordinance and N.C.G. S. § 160A-361.

601.1 Notice of Violations and Citation Procedures.

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.

601.2 Notice of Violation; Opportunity to Cure. 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 immediately notify that person of the violation. Such notice of violation shall be in writing and shall be served by personal delivery or by certified or registered mail, return receipt requested. In addition,

service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. If the violator cannot be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. The notice of violation shall include an opportunity to cure the violation within a prescribed period of time.

601.3 Extension of Time to Cure. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the violation, the Town official charged with the duty of enforcing the regulation(s) being violated may grant a single extension of time, not to exceed a period of thirty days, in which the alleged violator may cure or correct the violation before the Town issues a citation pursuant to subsection 601.4 below.

601.4 Citation for Violation. Any person, who after being given a notice of violation pursuant to section 601.2 above, and who continues such violation, shall be subject to the enforcement remedies set forth in this section. The Town shall service a written citation on the alleged violator by personal delivery or by certified or registered mail, return receipt requested. In addition, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. If the violator cannot be ascertained, then the citation shall be sent to the record owner of the land on which the violation occurs. The citation shall specify the amount of any civil penalty which shall be levied against the alleged violator or the type of criminal penalty applicable. The civil penalty shall be paid, or the criminal enforcement may be sought by the Town, or the violation shall be cured or corrected, within seventy two (72) hours of receipt of the citation by the alleged violator, or such other time period, not to exceed thirty (30) days, as the citation may specify.

601.5 Action for Recovery of Civil Penalty. If payment is not made, or the violation(s) are not cured or corrected, within the time specified in the citation, then the matter shall be referred to the Town Attorney for institution of a civil action in the name of the Town in a court of competent jurisdiction.

602 Certificate of Zoning Compliance Required. No Building or other Structure shall be erected, moved, added to or structurally altered, nor shall any new parking spaces or parking lots be added, nor shall any Building Permit be issued nor shall any change in the use of any Building, Structure or land be made until a Certificate of Zoning Compliance shall have been issued by the Zoning Official. No certification of zoning compliance shall be issued except in conformity with the provisions of this Ordinance. Replacement of roof shingles does not require Zoning Compliance. Where a variance or Conditional Use Permit is required, the Zoning Official 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.

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

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

602.2 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.

602.3 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 Official 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.

602.4 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 Official 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.

602.5 Re-submission of Application for Zoning Compliance. An application that has been denied by the Zoning Official 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.

603 Building and Occupancy Permits Required.

603.1 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.

603.2 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.

603.3 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.

603.4 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.

- 604 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 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.
- 605 Appeal from the Zoning Official. All questions arising in connection with this Ordinance shall be presented first to the Zoning Official, and such questions shall be presented to the Board of Adjustment only as an appeal from a ruling of the Zoning Official. Any order, requirement, decision or determination made by the Zoning Official 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.
- 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.
- 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.
- 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.

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.

- 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 exceed ten (10) feet in height at eave line shall be permitted by 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 and must meet the minimum setbacks required by the respective zoning district except under the provisions found in Section 612.2.

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) 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.

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) 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) 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.

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 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.

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.

616.2 Non-Conforming Improved Lots.

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
- 2) 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) 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.

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.
- 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 enforcement action if the situation is not corrected to the satisfaction of the Zoning Official within seven (7) days of notification. (For General Nuisances refer to the Montreat Code of General Ordinances, Chapter I, Article I.)
- 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.
- 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.

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.

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.

622.41 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.

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 623.5; 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 623.34 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.

622.54 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.

- 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
- 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 Trees in Greenspace and Regulated Tree Regulations. No person, directly or indirectly, shall remove or damage any Regulated Tree or any tree located in Greenspace without first obtaining a written tree removal permit.
- 625.1 Application for Permit. Permits for removal of Regulated Trees and trees in Greenspace shall be obtained by making application to the Town Administrator or his/her designee. Said application shall be in writing using the application form approved by the Town Board of Commissioners and shall include documentation showing that the criteria specified in 626.2 have been met. After the Town Administrator reviews and approves the application, he/she shall forward the application to the Town Commissioner who has been appointed as the Environmental Liaison for a second approval. The Environmental Liaison may delegate his/her approval to the entire Board of Commissioners if the permit application is questionable or it is for a significant number of trees or area of Greenspace.

625.11 Permits Which Require Remedies. Permits may be issued which require remedies such as the placement of trees after removal. The Town may withhold or withdraw Town-issued permits, certificates and other authorizations until such requirements are met.

625.2 Criteria for Permit Approval or Denial. The Town Administrator or his/her designee shall review each application for tree removal permits employing the criteria below and any professional or technical assistance as necessary. No permit shall be issued unless one of the following conditions exist:

625.21 The tree is located within the established right-of-way on private property and where Structures, utilities, lawn areas or other improvements are to be placed and removing such trees is considered essential for the proper development of the tract and the relocation of the tree is not feasible; or

625.22 The tree is dead, diseased, injured, in danger of falling, dangerously close to existing or proposed Structures, is causing disruption of public utility services, is causing drainage or passage problems upon rights-of-way, poses a threat to pedestrian or vehicular safety or conflicts with Ordinances or regulations not otherwise waived herein; or

625.23 The removal of the tree is necessary and desirable in order to enhance or benefit the health or condition of other trees or other valuable species of trees.

625.4 Exceptions. During the period of an emergency such as a windstorm, tornado, or other Acts of God, the requirements of this Section may be waived by the Town Administrator or his/her designee or by a Town Commissioner.

625.5 Penalties for Violation. Unauthorized removal or damage of a Regulated Tree or Greenspace tree will result in the maximum fine allowed under the law, in addition to possible replacement of trees or plantings.

625.6 Knowledge of Violation. Citizens having knowledge or suspecting unlawful removal or damage of Regulated Trees or Greenspace trees may submit a request for review of such case by the Town Administrator.

626 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.

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.

627 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.

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

628.1 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.

628.2 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.

629 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.

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.

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:

- 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.

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 of Montreat. No Building Permit shall be issued nor plat approved until the landscape plan is approved by the Zoning Official. The Zoning Official may

request any additional information needed to determine compliance with this Section.

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.
- 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.
- 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;
- 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 632.46; 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.

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.

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:

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:

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

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.

- 631.73 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.
- 631.74 No parking space shall be more than 75 feet from a tree or 100 feet from plantings of more than one tree.
- 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:
- 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.
- 632.4 Non-compliant fences shall be removed or brought into compliance within six (6) months of the effective date of this ordinance.