

TOWN OF MONTREAT ZONING ORDINANCE

ARTICLE VIII - CONDITIONAL USES

800 Purpose. The purpose of this Article is to insure there is adequate review and control of various specific uses or developmental proposals that may have a direct influence or impact upon neighboring or contiguous land uses. This review is intended to aid in protecting the private and public values and interests in such land uses whether residential, institutional, or commercial in nature.

801 Standards. The following sections of this Article provide both the application procedure to be followed (Section 802) and the special criteria which must be satisfied to obtain approval. All conditional uses shall be reviewed by the Planning Commission and subject to recommendation to the Zoning Board of Adjustment. No Conditional Use Permit shall be recommended by the Planning Commission unless the Commission shall find that:

- 1) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- 2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
- 3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the Zoning District;
- 4) The exterior architectural appeal and functional plan of any proposed Structure will not be so at variance with the exterior architectural appeal and functional plan of the Structures already constructed or in the course of construction in the immediate neighborhood or with the character of the applicable District as to cause a substantial depreciation in the property values within the neighborhoods;
- 5) Adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;
- 6) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- 7) Off-street parking shall be provided in accordance with Article IX; and
- 8) The conditional use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located, except as such regulations

may, for each case, be modified by the Zoning Board of Adjustment pursuant to the recommendations of the Planning Commission.

802 Application Procedure.

802.1 Applicant. The applicant must be the owner, owners, lessee, lessees, or their legal representative of all land and Structures included within the tract, or a governmental agency. The holder of a conditional sales contract, option to purchase, or lease for land and/or Structures shall, for the purposes of the application, be deemed to be the owner or lessee of the land and/or Structures covered by such contract, option or lease.

802.2 Application Form for Conditional Use Permits. Application forms shall be obtained from the Zoning Official. The applicant shall submit to the Zoning Official the completed application, a description of the proposed use, a plat showing the proposed locations of any Structures to be built or modified, a map showing the topography of the site, the names of the owners of all property within two hundred feet (200') of the Lot, and the existing uses of all property within two hundred feet (200') of the Lot.

When the Zoning Official has received the required materials, the official shall forward them to the Planning and Zoning Committee. *(Revised 06/10/04)*

802.3 Applications for Conditional Use Permits. Applications must be submitted in proper form, at least twenty one (21) days prior to a Planning Commission regular meeting in order to be heard at that meeting. An application fee of thirty five dollars (\$35) shall accompany each application and this fee shall be non-refundable except in any case where the application is withdrawn prior to its consideration by an officer or a board of the Town. The applicant shall show proof of actual written notification to the owners of all property located within two hundred feet of the site and any other people the Planning Commission may require.

802.4 Review by the Planning Commission. All documents and other data submitted by the applicant on behalf of the Conditional Use Permit shall be transmitted to the Planning Commission.

802.41 The Planning Commission, at regular meetings, shall review applications for Conditional Use Permits and other submitted documents and information and shall determine whether a recommendation to the Board of Adjustment is appropriate.

802.42 All meetings of the Planning Commission shall be open to the public. At a meeting, any party may appear in person, by agent, or by attorney.

802.43 No member of the Planning Commission shall participate in a matter in which he or she has any conflict of interest.

802.44 Following a determination by the Planning Commission that an application should be recommended to the Board of Adjustment, the Planning Commission shall transmit all documents and data pertinent to the application to the Board of Adjustment for final action.

802.5 Final Jurisdiction. Final approval of Conditional Use Permits shall be granted by the Board of Adjustment.

802.6 Public Hearing. Before passing judgment on a Conditional Use Permit, the Board of Adjustment shall hold a public hearing thereon. At least ten (10) days notice of the time and place of the hearing shall be published in a newspaper of general circulation in Montreat, weekly for two (2) consecutive weeks.

Public hearings shall be held during the regularly scheduled meetings or during a called meeting of the Zoning Board of Adjustment.

802.7 Conditional Use Permit. Following the public hearing, the Board of Adjustment may issue a Conditional Use Permit. In granting such a permit, the Board of Adjustment shall designate such conditions in connection with the permit as will, in its opinion, assure that the use will conform to the requirements of the Ordinance. If at any time after a Conditional Use Permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the owner of a permit, the Board of Adjustment shall immediately notify the holder of the Permit and the Board of Adjustment shall schedule a hearing. The use shall be suspended until the hearing is held and the decision is made by the Board of Adjustment. If a Conditional Use Permit is terminated for any reason, it shall not be brought back before the Planning and Zoning Committee for a period of six (6) months from the date of termination.
(Revised 06/10/04)