

ZONING ORDINANCE

TOWN OF MONTREAT

NORTH CAROLINA

Prepared by the Planning and Zoning Commission

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TOWN OF MONTREAT

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ARTICLE I – TITLE

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

ARTICLE II – AUTHORITY AND ENACTMENT CLAUSE

Pursuant to the authority conferred by the North Carolina General Statutes §§160A-381 through 160A-394, the Board of Town Commissioners of the Town of Montreat, North Carolina, does hereby ordain and enact into law the following articles and sections.

ARTICLE III - PURPOSE

This Ordinance shall be enacted for the purposes of promoting the health, safety, morals and general welfare of the inhabitants of the Town of Montreat, North Carolina; facilitating the adequate provision of transportation, sewerage, water, schools, parks, and other public improvements; regulating the location and uses of Buildings, Structures and land for trade, industry, residence or other purposes; regulating the height and number of stories of Buildings, and the size of yards and open spaces surrounding Buildings; regulating the density of population; and dividing the Town into Districts of such number, shape and area as may be best suited to carry out the purposes.

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ARTICLE IV - ESTABLISHMENT OF ZONING DISTRICTS

(Revised 6/14/2001); (Revised 9/08/2005)

400 Jurisdiction. The provisions of this Ordinance shall be applicable to all property within the town limits of Montreat, North Carolina and within the Town's extraterritorial jurisdiction.

401 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
- RPO: Ridge Protection Overlay District
- CD: Conservation District

402 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.

402.1 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.

402.2 If, in accordance with the provisions of this Ordinance and North Carolina General Statutes Sections 160A-381 through 160A-394, changes are made in District boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map by the Zoning Official within seven (7) days after the amendment has been approved by the Board of Town Commissioners.

402.3 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 considered as a violation of this Ordinance.

- 402.4 Regardless of the existence of any purported copy of the Official Zoning Map, the Zoning Map which shall be located in the office of the Town of Montreat shall be the final authority as to the current zoning status of land, Buildings, and other Structures in the Town. The original of the Zoning Map shall be kept in the Town office.
- 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.
- 403.8 Where a District boundary appears to divide a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale on the map. In the event that a District boundary line on the Zoning Map divides a platted lot held in one ownership on the date of passage of this Ordinance, the District requirements for the least restrictive portion of said lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than thirty-five feet (35') beyond the District boundary line;
- 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.

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ARTICLE V – DEFINITIONS

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

500 Interpretation of Certain Words or Terms. Except as specifically defined herein, all words used in this Ordinance have their customary dictionary definitions. For the purposes of this Ordinance, certain words or terms used herein are defined as follows:

500.1 Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular;

500.2 The word "shall" is always mandatory;

500.3 The word "may" is permissive;

500.4 The word "lot" includes the word "plot" or "parcel";

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

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

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

500.8 The term "Planning Commission" refers to the Montreat Planning and Zoning Commission. The terms "Town Commissioners" "Town Board of Commissioners" or "Mayor and Town Commissioners" refer to the legally constituted and elected governing body of the Town of Montreat. The term "Board of Adjustment" refers to the Zoning Board of Adjustment for the Town of Montreat.

501 Definitions.

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.

Bed and Breakfast, Home: A private owner-occupied residence with one o four guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast use is subordinate and incidental to the main residential use of the building. The homeowner shall reside on site and employment shall not exceed one full-time employee in addition to the owner.

Bed and Breakfast, Inn: A private owner-occupied residence with five to twelve guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the Bed and Breakfast Inn is operated primarily as a business. The homeowner shall reside on site and employment shall not exceed the equivalent of three full-time employees in addition to the owner.

Boarding House: A dwelling unit of part thereof where, for compensation, lodging and meals are provided.

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. The required front, side and rear yards shall be measured inward toward the center of said lot from all points along the respective property lines. Buildable area shall be computed by measuring the allotted distances, perpendicular from each property line (See Section 614 for irregularly shaped lots). One exception exists for this requirement as follows: Where a lot line is the center of the street and a utility easement is provided along the street, the setback shall be measured from the side of the utility easement closest to the center of the lot.

Building: Any Structure, fully or partially enclosed, and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, trailers, mobile homes, and similar Structures whether stationary or movable.

Building Height: The vertical distance measured from average natural grade encompassing the living areas of a structure to the highest point of its roofline, or from the top of the parapet or roof surface for flat-roofed structures. Carports, garages, decks and other non-inhabited additions to structures that may increase the building footprint are not included in calculation of average natural grade.

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

Certificate of Zoning Compliance: A certification that plans and premises conform to the provisions of the Zoning Ordinance.

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

Columbarium: A Structure containing niches for the deposit of urns containing cremains or an ash garden for the scattering of cremains.

Conditional Use: A specific use which may be permitted in a Zoning District by the Board of Adjustment subject to the Board's findings that the use would not adversely affect adjacent property or the health, safety or general welfare of persons in the area adjacent to the use. Such use may be permitted only in a Zoning District where said use is specifically listed as a conditional use.

Conditional Use Permit: A permit issued by the Zoning Board of Adjustment for a use which is permitted in a Zoning District, subject to review and approval by the Board of Adjustment. The Conditional Use Permit shall be issued only when the specific conditions and review procedures set forth in this ordinance are met to maintain and protect the health, safety and general welfare of persons residing in the area, and to insure the compatibility of the use with adjacent properties and within the entire community of Montreat.

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

Customary Home Occupation: Any occupation conducted in a dwelling unit or accessory Building provided that:

- 1) No person other than members of the family residing on the premises shall be engaged in such 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) sign, not exceeding a four (4) square foot area, non-illuminated, and mounted flat against the wall of the principal Building;
- 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.

Dedication: The appropriation of land or an easement therein by the owner 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 as an accessory use for a college, boarding school, monastery or other similar institutional use. Dormitories may contain common, shared kitchen facilities and bathrooms but shall not contain individual kitchen facilities and private bathrooms.

Dwelling: Any Building, or portion thereof, which is designed for living and/or sleeping purposes for one or more families.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons including permanent facilities for living, sleeping, eating, cooking, and sanitation.

Dwelling, Single-Family: A detached dwelling unit, other than a mobile home, designed for or occupied exclusively by one family, except for Vacation/Conference Rentals as allowed in Chapter H, Article II of the General Ordinances of the Town of Montreat.

- 1) Dwelling, Two-Family: A detached Building including two individual dwelling units.
- 2) Dwelling, Multi-Family: A dwelling intended or used for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public or another person or entity for a particular purpose or purposes. Examples include access easements, drainage easements or utility easements.

Educational Facility: An Educational Facility includes, but is not limited to the following: Buildings and equipment used primarily for the education of children and/or adults, instructional research, conferences, administrative purposes, and supporting service operations. An Educational Facility includes classroom Buildings, laboratories, lecture halls, libraries, administration

Buildings, conference centers, gymnasiums, field houses, dormitories, counseling centers, and Buildings for the storage of transportation and maintenance equipment, office machines and furniture.

Family: One or more persons occupying a single Dwelling Unit, provided that unless all members are related by blood, adoption, marriage or legal guardianship, no such family shall contain over four (4) unrelated people.

Family Care Home: A home that provides room and board, and personal care and rehabilitation services to people with special needs for no more than six (6) residents. Persons with special needs are those with physical, emotional, or mental disabilities or are elderly. No Family Care Home shall be located closer than one mile from any other Family Care Home.

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 barrier intended to prevent escape or intrusion or to mark a boundary.

- 1) Fence, Closed: A fence in which the opening through which clear vision is possible from one side to the other on a horizontal plane comprise thirty percent (30%) or less of the total side area of the fence.
- 2) Fence, Open: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise seventy percent (70%) or more of the total side area of the fence.

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.

Floodway: That portion of the channel and flood plain of a stream designated as a minimum area to provide passage for the Regional Flood, without increasing the elevation of that flood at any point by more than one foot. For the purposes of the Ordinance, the Floodway shall be along Flat Creek and its tributaries as defined on the Official Zoning Map of the Town of Montreat, as amended.

Floodway Encroachment Lines: Lateral limits of a Floodway along streams or other bodies of water, within which, in the direction of the stream or other body of water, no Structure or fill may be added, nor flammable liquids stored, unless specifically permitted herein. The purpose is to preserve the flood carrying capacity of the Floodway. The location of the Floodway Encroachment Lines is such that the floodway between them, including the channel, will handle the Regional

Flood flow without increasing the flood stage by more than one foot.

Flood Fringe Area: The land area located between the Floodway Encroachment Lines of a Floodway and maximum elevation subject to inundation by the Regional Flood as defined herein.

Flood, Regional: A flood which is representative of the largest floods to have occurred on a particular stream or a similar stream in the same geographical area.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a Building from the exterior face of exterior walls, or from the centerline of a wall separating two Buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

Floor Area, Net: The total of all floor areas of a Building, excluding stairwells, elevator shafts, equipment rooms, interior vehicular parking or loading, any space where the floor-to-ceiling height is less than six feet, and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

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

Garage, Private: An accessory Building or portion of a principal Building used for the storage of private motor vehicles, in which no business, occupation, or service for profit is in any way connected. The term "garage" shall include the term "carport."

Garage, Repair: Any garage which is used for storage, repair, rental, servicing, washing, adjusting, or equipping of automobiles or other vehicles. A garage exceeding 850 square feet in area or used to store more than four (4) automobiles, shall be deemed a Repair Garage.

Greenspace: Strips of publicly owned and maintained land, generally but not always following the rights-of-way of public streets, that are used only for the recreation, fishing, greenspaces and beautification of the Town as defined by the "Greenspace Resolution" unanimously adopted by the Town Commission on July 1, 1983.

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

Grocery Store (Convenience): An establishment which deals principally in a limited selection of a variety of convenience items including household goods, automobile supplies and dry goods. In addition, the Building in which such an establishment is housed is generally smaller and designed for easy access with an emphasis on serving the customer as quickly as possible.

Group Care Facility: A facility which provides services to seven (7) or more individuals of whom one or more are unrelated. These individuals are handicapped, aged, or disabled, are undergoing rehabilitation, 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.

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.

Inn: A commercial facility for the housing and feeding of transients. *(Revised 10/12/06)*

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.

Lodge: A building or group of buildings under single management containing both rooms and dwelling units available for temporary rental to transient individuals or families.

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 frontage of a lot shall be construed to be the portion nearest the street.
- 4) Lot, Interior: A lot which has frontage on only one (1) street other than an alley.

Lot Measurements:

- 1) Depth of a lot shall be considered to be the average of the distances from the front property line to the rear property line. Also see Section 614.

- 2) Width of a lot shall be considered to be the horizontal distance between side lot lines measured at the projected front line of the principal Building or proposed principal Building.
- 3) All lot measurements shall be converted from slope to horizontal lines.

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, transportable in one or more sections, which is NOT constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, is eight feet or more in width and is 40 feet or more in length, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

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.

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.

Natural Grade: That slope of land which has been cleared, with no major disturbance of soil.

Non-Conforming Structure: A Structure which does not conform with the requirements of the Zoning District in which it is situated, either at the effective date of this Ordinance or as the result of subsequent amendments to this Ordinance.

Non-Conforming Use: A legal use of a Building and/or land that antedates the adoption or future amendments of this Ordinance and does not conform to the requirements for the Zoning District in which it is located.

Nursery School: A privately owned and operated school designed to provide daytime care or instruction for two (2) or more preschool children, and operated on a regular basis. The term "nursery school" shall include the terms "day care center" and "child care center."

Open Storage: Unroofed storage areas, whether enclosed or not.

Overlay District: A Zoning District that adds requirements to the Zoning District over which it lies. Uses or proposed uses within an overlay District must comply with all requirements of both

the overlay District and the underlying Zoning District. Where conflicts appear to exist between the requirements of the two Districts, the more restrictive requirement shall apply.

Park: A public facility for recreation, which may have commercial activities for recreational uses only.

Parking Space: A storage space of not less than nine feet (9') by eighteen (18') for one (1) automobile, plus the necessary access space. (See Section 900.2).

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 satisfactory for 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.

Regulated Tree: A Regulated Tree shall be any self-supporting woody perennial plant located within the right-of-way lines of any private property as established by the Town of Montreat, or twenty-five (25') feet of either side of the center line of any street, whichever is more restrictive. Further, all trees on public street rights-of-way or public property owned by the Town of Montreat shall be considered to be Regulated Trees.

Removal of a Regulated Tree: The cutting down of any Regulated Tree and all other acts which cause premature death or destruction of any Regulated Tree.

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 lot line to the closest edge of a Structure or sign.

Setback Line: A line establishing the minimum allowable distance between the nearest portion of any Building, excluding the outermost three feet (3') of any 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 main Building and shall not extend beyond the setback line.

Senior Citizens' Center: A privately or publicly owned and operated facility designed to provide daytime care and/or instruction for two (2) or more senior citizens, and operated on a regular basis.

Sign: Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known, including any surface fabric or other material or Structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which is exposed to public view and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit. (See Article X)

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 fences, business signs, and billboards.

Studio: The workshop of an artist, sculptor, photographer or craftsman.

Subdivision: All divisions of a tract or parcel of land into two (2) or more lots, Building sites, or other divisions for the purposes of sale or Building development (whether immediate or future) including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Section:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in the Subdivision Regulations;
- 2) The division of land into parcels greater than ten (10) acres where no new street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets or other public uses; and

- 4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in the Subdivision Regulations.

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.

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 street 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 Zoning District as expressly listed in Section 700 of this Ordinance.

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, and size of Structure of size of yards and open spaces (See Section 1204 for Variance Application Process).

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

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 street property line and extending the full width of the lot.
- 2) Minimum Rear Yard: A required open space between the rear setback line of the principal Building and the rear line of the lot and extending the full width of the lot.

- 3) Minimum Side Yard: A required open space on the same lot with a principal Building between the side setback line of the Building and the side line of the lot and extending from the front property line to the rear property line.

Zoning Official: 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

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE VI - GENERAL 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)*

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
- 4) 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 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.

631 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.

632 Landscaping Requirements.

632.1 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.

632.2 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.

632.3 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.

632.4 General Provisions.

632.41 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.

632.42 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.

632.43 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.

632.44 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.

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

632.46 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.

632.47 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.

632.5 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.

632.6 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.

632.7 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:

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

- 632.72 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.
- 632.73 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.
- 632.74 No parking space shall be more than 75 feet from a tree or 100 feet from plantings of more than one tree.
- 632.75 Shrubs and other types of plant materials shall be used which will complement the tree plantings subject to approval by the Zoning Official.
- 632.76 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.

633 Fences.

- 633.1 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.

- 633.2 Electrically charged fences and other sharp metal or glass fences are prohibited. Barbed wire fences are prohibited except as listed in 633.3.
- 633.3 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.
- 633.4 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)

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."

USE	DISTRICT							
	R-1	R-2	R-3	IR	I	WL	RPO	CD
Accessory Buildings or Uses	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*			
Art Galleries				X*	X*			
Auditorium				X*	X*			
Bakeries				X*				
Banks				X*				
Barber and Beauty Shops				X*				
Bed and Breakfast, Home		X*		X*	X			
Bed and Breakfast, Inn		X*		X*	X			
Boarding Houses		X*		X*	X			
Camps, Summer					X*	X*		

USE	DISTRICT							
	R-1	R-2	R-3	IR	I	WL	RPO	CD
Campgrounds					X*	X*		
Conference Center				X*	X			
Churches				X*	X			
Columbarium			X*	X*	X*	X*		X*
Copying and Duplicating Services				X*	X			
Community Facility		X*		X*	X			
Customary Home Occupations	X**	X**	X**	X**				
Dancing Instruction				X*				
Dormitory					X			
Drug Stores and Pharmacies				X*	X			
Dwellings:								
Single-family	X	X	X	X				
Two-Family	X	X	X	X				
Multi-Family		X*		X				
Group	X*	X*			X			
Large Group		X*		X*	X*			
Eating Establishments (Excluding Drive-ins)				X*	X			
Educational Facility				X	X			
Family Care Homes	X	X	X	X				
General Merchandise Retail				X*	X			
Grocery Stores – Convenience				X*	X			
Group Care Facility		X*		X*				
Hospitals				X*	X*			
Inn				X*	X			
Laundries, Dry Cleaning, Linen Supply Services				X*	X			
Laundries, Self-Service		X*		X*	X			
Libraries, Public				X*	X*			
Lodge				X*	X			
Medical and Dental Clinics					X*			

USE	DISTRICT							
	R-1	R-2	R-3	IR	I	WL	RPO	CD
Manufactured Homes (See Section 623)	X*							
Motel					X			
Museums, Public				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*			
Parks or other Public Recreational Facilities	X*	X*	X*	X*	X*	X*		X*
Printing, Publishing, Blue-Printing, Photostatting, Newspaper and Job Printing				X*	X*			
Public Streets and Utilities	X	X	X	X	X	X		X*
Riding Stables						X*		
Signs: Subject to Article X								
Studios	X**	X**	X**	X**	X			
Swimming Pools, Private	X**	X**	X**	X**				
Swimming Pools, Public				X*	X*			
Theaters, Privately Operated					X*			
Theaters, Public Outdoor					X*			
Veterinarians				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 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.

701.2 Permitted Uses. See Section 700.

- 701.3 Conditional Uses. See Section 700 and Article VIII.
- 701.4 Minimum Lot Area.
- 701.41 Ten thousand (10,000) square feet for all Single-family Dwellings.
- 701.42 Fifteen thousand (15,000) square feet for Two-family Dwellings.
- 701.43 Fifteen thousand (15,000) square feet for other uses.
- 701.5 Minimum Lot Width. Seventy-five feet (75').
- 701.6 Minimum Lot Depth. One hundred feet (100').
- 701.7 Minimum Front Yard. Thirty feet (30').
- 701.8 Minimum Side Yard.
- 701.81 Single-family and Two-family Dwelling Units: Fifteen feet (15').
- 701.82 All Other Uses: Twenty-five feet (25').
- 701.9 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').
- 701.10 Maximum Building Height. Thirty-five feet (35').
- 701.11 Off-Street Parking and Loading Regulations. See Article IX.
- 701.12 Accessory Buildings. See Section 612 and 700.
- 701.13 Signs. See Article X.
- 701.14 Water System and Sewerage Disposal System Approval Required. The Zoning Official shall not issue a Certificate of Zoning Compliance for any new Structure in the R-1 Residential District unless and until the applicant provides evidence that a connection to the Town water system has been approved and a sewer service application has been approved by Metropolitan Sewerage District (MSD) of Buncombe County. For existing structures utilizing septic systems or wells approved and in service before adoption of Montreat Code of General Ordinances Chapter E – Utilities, Article I: Water & Sewer, nothing in this Section shall prohibit the continued use of such systems in accordance with provisions of the Code. Neither addition to, nor expansion of, an existing structure within the R-1 Residential District shall be permitted that would result in an increase in the required capacity of such system(s) and subsequent modification. Owners of

existing well and septic systems shall be required to connect to Town utility services when such modifications are necessary.

702 R-2 Residential Districts.

702.1 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 excluded.

702.2 Permitted Uses. See Section 700.

702.3 Conditional Uses. See Section 700 and Article VIII.

702.4 Minimum Lot Area.

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

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

702.43 Multi-family Dwellings having three (3) or more units shall have a minimum of twenty thousand (20,000) square feet, plus an additional three thousand, five hundred (3,500) square feet for each dwelling unit in excess of four (4).

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

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

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

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

702.8 Minimum Side Yard.

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

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

702.9 Minimum Rear Yard. Twenty percent (20%) of the mean lot depth, provided that such rear yards used for dwellings need not exceed thirty feet (30').

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

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

702.12 Accessory Buildings. See Section 612 and 700.

702.13 Signs. See Article X.

703 R-3 Residential District.

703.1 Purpose. This Zoning District is established to protect areas in which the principal use of the land is for low density, single- and two-family dwellings as well as for the related recreational facilities normally required to provide for an orderly 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.

703.2 Permitted Uses. See Section 700.

703.3 Conditional Uses. See Section 700 and Article VIII.

703.4 Minimum Lot Area.

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

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

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

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

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

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

703.8 Minimum Side Yard.

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

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

703.9 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.

703.10 Maximum Building Height. Thirty-five feet (35’).

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

703.12 Accessory Buildings. See Section 612 and 700.

703.13 Signs. See Article X.

703.14 Water System and Sewerage Disposal System Approval Required. The Zoning Official shall not issue a Certificate of Zoning Compliance for any new Structure in the R-3 Residential District unless and until the applicant provides evidence that a connection to the Town water system has been approved and a sewer service application has been approved by Metropolitan Sewerage District (MSD) of Buncombe County. For existing structures utilizing septic systems or wells approved and in service before adoption of Montreat Code of General Ordinances Chapter E – Utilities, Article I: Water & Sewer, nothing in this Section shall prohibit the continued use of such systems in accordance with provisions of the Code. Neither addition to, nor expansion of, an existing structure within the R-3 Residential District shall be permitted that would result in an increase in the required capacity of such system(s) and subsequent modification. Owners of existing well and septic systems shall be required to connect to Town utility services when such modifications are necessary.

704 I/R Institutional/Residential District.

704.1 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.

704.2 Permitted Uses. See Section 700.

704.3 Conditional Uses. See Section 700 and Article VIII.

704.4 Minimum Lot Area.

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

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

704.43 Multi-family Dwellings. Fifteen thousand (15,000) square feet plus three thousand (3,000) square feet for each dwelling unit in excess of two (2).

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

704.5 Minimum Lot Width.

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

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

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

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

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

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

704.8 Minimum Side Yard.

704.81 Interior Side. Twelve feet (12').

704.82 Street side at corner lot. Seventeen and one-half feet (17.5').

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

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

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

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

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

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

704.13 Signs. See Article X.

705 I – Institutional.

- 705.1 Purpose. The Institutional Zoning District is established to permit certain institutional uses as defined in Article V, Definitions, Educational Facility.
- 705.2 Permitted Uses. See Section 700 and Article V, Definitions, Educational Facility.
- 705.3 Conditional Uses. See Section 700 and Article VIII.
- 705.4 Minimum Lot Area. Seven thousand five hundred (7,500) square feet.
- 705.5 Minimum Lot Width. Seventy-five feet (75').
- 705.6 Minimum Lot Depth. One hundred feet (100').
- 705.7 Yard Requirements.
- 705.71 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.
- 705.72 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.
- 705.8 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.
- 705.9 Off-Street Parking and Loading Regulations. See Article IX.
- 705.10 Screening Regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:
- 705.101 Like or similar uses abutting each other in different Districts: None.
- 705.102 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.
- 705.11 Signs. See Article X.
- 706 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.

- 706.1 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.
- 706.2 Permitted Uses. Agricultural uses and enterprises. (See Section 700).
- 706.3 Conditional Uses. See Section 700.
- 707 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.
- 707.1 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.
- 707.2 Permitted Uses. Agricultural uses and enterprises except logging and timber harvest. (See Section 700.)
- 707.3 Conditional Uses. None allowed.
- 708 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.
- 708.1: 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.

[CONTINUED ON FOLLOWING PAGE]

709 Lot Requirements Summary Table.

Zoning District and Use	Minimum Lot Dimensions			Minimum Yard/Setback		
	Size	Width	Depth	Front	Side	Rear
	(sq. ft.)	(feet)	(feet)	(feet)	(feet)	(feet)
R-1						
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	**

Zoning District and Use	Minimum Lot Dimensions			Minimum Yard/Setback		
	Size	Width	Depth	Front	Side	Rear
	(sq. ft.)	(feet)	(feet)	(feet)	(feet)	(feet)
R-2						
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	**
R-3 (septic)						
Single Family	20,000	75	100	30	15	**
Two Family	30,000	75	100	30	15	**
Other uses	30,000	75	100	30	25	**
I/R						
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	
I						
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.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE VIII - CONDITIONAL USES

(Revised 6/10/2004); (Revised 8/14/2008)

- 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.

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 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 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.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE IX - OFF-STREET PARKING AND LOADING REGULATIONS

(Revised 6/14/2001); (Revised 11/14/2002)

(Revised 9/10/2009); (Revised 1/14/2010)

900 Off-Street Parking Regulations.

900.1 General. Areas suitable for parking or storing automobiles in off-street locations shall hereafter be required in all Zoning Districts at the time of initial construction of any principal Building producing 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.

900.2 Parking Space Area Requirements. For the purpose of this Ordinance, a standard car off-street parking space is nine feet (9') wide and eighteen feet (18') long. No two-way entrance or aisle shall be less than twenty-four feet (24') wide. In no event shall an entrance be less than twelve feet (12') for one-way traffic. No parking space shall be closer than eight feet (8') to the traveled portion of the roadway and said eight foot area shall be maintained as a landscaped buffer, unless the Zoning Official determines an alternate layout/design provides an equivalent safety factor. No vegetation in this landscaped area shall exceed two and one-half feet (2 1/2') in height nor shall it obstruct visibility at any intersection, entrance or the traffic intersection. Parking areas shall be constructed with proper drainage and well-maintained traffic directional system.

900.3 Parking Area Surfaces.

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

900.32 The durable, dustless surface may be temporarily omitted upon approval of the Zoning Official wherever 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 permanent development of the property is accomplished. 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 may be considered sufficient cause for the Zoning Official to require the owner to construct a durable, dustless surface.

900.33 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 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.

Loose stone or compacted stone without a suitable bonding agent may be acceptable as a durable, dustless surface.

900.4 Permitted Slope. No grade within a commercial or institutional parking area or access lanes shall exceed sixteen percent (16%) slope. 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 may not be included in calculation of required parking spaces. Accessible parking spaces, as defined by North Carolina State Building Code, Volume 1-C, shall not exceed a surface slope of two percent (2%) at any point.

900.5 Location on Other Property. If the required automobile parking space cannot reasonably be provided on the same lot with the principal use, such spaces shall be provided on other off-street property under the same ownership or on other property rented or leased, provided such property lies within five hundred feet (500') walking distance of the main entrance to such principal use. Such automobile parking spaces shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner which would reduce the number of parking spaces below the required minimum.

900.6 Common Off-Street Parking Areas. Two (2) principal uses may utilize a common parking area in order to comply with off-street parking requirements, provided that the total number of individual spaces available in such common areas is not less than the total sum of the spaces required for the individual uses as separately computed in accordance with the provisions of this Ordinance, and provided that the owner of said lot relinquished his/her development rights over to the property until such time as minimum required parking space is provided elsewhere.

900.7 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.

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

900.81 Residential. The total number of required parking spaces for residential structures shall be calculated by considering both heated square footage and sleeping accommodations (bedrooms) provided, and shall be the greater of the two.

- 1) The number of parking spaces based on square footage is as follows: Two (2) spaces required per dwelling unit up to 2000 square feet. One (1) additional space required for each additional 500 square feet above 2000. For existing homes out of compliance with this ordinance, one (1) additional parking space shall be required for each 500 square feet that is added to the structure.
- 2) The number of parking spaces based on bedrooms is as follows:
For dwelling units there shall be one (1) parking space for each bedroom. For existing homes out of compliance with this ordinance, one (1) additional parking space shall be required for each bedroom that is added to a structure.

900.82 Commercial, Professional Offices and Government. One (1) space for each two hundred (200) square feet of gross floor space.

900.83 Recreation Areas.

Ball Fields. One (1) space per five (5) seats in the stands.

Tennis Courts. Two (2) spaces per court.

900.84 Gymnasiums and Other Indoor Recreation Facilities. One (1) parking space for each one hundred fifty (150) square feet of gross floor area.

900.85 Cultural and Community Facilities, Places of Public Assembly and Religious Complexes. One (1) parking space per one hundred fifty (150) square feet of gross floor space or one (1) space per each three (3) seats in the principal assembly room or area, whichever is greater.

900.86 Boarding Houses. One (1) space for each guest room and one (1) space for each owner or manager residing on the premises.

900.87 Educational Facilities.

900.871 Classroom Buildings. Provide one (1) space every two (2) students. The count of students shall be performed on September 1 annually.

900.872 Administrative Offices. Provide one (1) space for each full-time employee.

900.873 Dormitories. One (1) space per each two (2) persons in the dorm based on full occupancy.

900.88 Family Care Homes, Group Care Facilities and Hospitals. One (1) space for each four (4) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each three (3) employees.

900.9 Off-Street Loading Regulations.

900.91 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. For the purposes of this Section, an off-street loading space shall have the minimum dimensions of twelve feet (12') by forty feet (40') and be free and clear of obstruction at all times. However, the minimum loading requirements shall meet the needs of each individual use. 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:

<u>Square Feet</u>	<u>Number of Spaces</u>
01-25,000	1
25,000 – 99,000	2
100,000 – 159,000	3
160,000 – 239,000	4
239,000 – 349,000	5
Additional 100,000 or fraction thereof	1 additional

900.92 Loading Spaces Adjacent to Sidewalks. Where a loading space is adjacent to a public sidewalk or other public walkway, it shall be so located, arranged and improved with curbs or other barriers, as to provide adequate protection for pedestrians.

900.93 Maneuvering Areas. All off-street loading spaces shall be allowed to use public rights-of-way for maneuvering areas incidental to parking, but loading spaces shall be so located that no vehicle will obstruct traffic or be parked on a street while loading or unloading is taking place.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE X - SIGN REGULATIONS

(Revised 6/10/2004); (Revised 7/13/06); (Revised 8/14/2008)

- 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 Building Inspector shall send written notice to the owner or lessee of the sign that the sign must be repaired and maintained or removed. Upon failure of the owner or lessee to correct such condition within thirty (30) days, the Building Inspector shall order the removal of such sign. The expense of the removal of the sign shall be billed to the owner or lessee of said sign in accordance with Section 1001.10.
- 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. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the Building Inspector shall order their removal subject to the terms of Section 1001.10. Temporary signs and political signs shall be removed within two (2) days after termination of the event or election advertised. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the Building Inspector shall order their removal and any expense of removal shall be billed to the owner or lessee of said sign(s) in accordance with Section 1001.10.

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 grade at the base of the sign, whichever is higher, to the highest point of the sign Structure.

1001.5 Building Code Compliance. All signs shall fully comply with the requirements of the State of North Carolina Building and Electrical Codes.

1001.6 Sign Setback Requirements. No portion of any free-standing sign may be located closer than four feet (4') 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 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 into any portion of the traveled roadway.

1001.8 Sign Permit Required. A sign permit, issued by the Town Administrator shall be required for all signs except those specified in Section 1003 and 1004. No permit shall be issued until the Zoning Official 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 non-conforming 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.

1001.91 Notice. The Building Inspector shall notify in writing the following persons of the non-conforming Structure:

- 1) The owner or lessee 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 shall be corrected within fifteen (15) days from the date of notification.

- 1001.92 Penalties. The owner or lessee of a non-conforming sign shall be fined fifty dollars (\$50.00) for each non-conforming sign if not corrected within the fifteen (15) days following notification. In case of a continuing violation, each 24-hour period during which the violation continues to exist shall constitute a separate violation.
- 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 a determination by the Building Inspector ordering removal or compliance as provided in Article XII of this Ordinance.
- 1001.94 Removal. If the non-conforming sign has not been brought into compliance with the provisions of this Ordinance or removed within the allotted fifteen (15) days as specified above, then said sign shall be removed by the Town and the cost of removal shall be billed to the owner or lessee of the sign.
- 1001.95 Failure to Pay Removal Costs. Pursuant to N.C.G.S. § 160A-193, if the Zoning Official 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, then a lien shall be placed on the real property where the removed sign was located in the amount of the costs of the removal and shall be collected as unpaid taxes.
- 1001.96 Failure to Pay Removal Costs of Other Signs. If the owner or lessee of a non-conforming sign that has been removed by the Town fails to pay for the costs of removal within thirty (30) days of the billing date, then the costs for 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:

- 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 Building Inspector.
- 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.
- 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, except a sign indicating time and/or temperature, with changes alternating on at least a five (5) second interval.
- 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.
- 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. Roof signs are prohibited in all districts.
- 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 signs indicating bus stops, taxi stands, and similar transportation facilities, or signs employed to serve as a directory for services that may be found within the Town. 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.

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 of sign up to a maximum of twelve (12) square feet of aggregate surface area. 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 Incidental to an Educational Facility. One (1) free-standing sign on the property on which an Educational Facility is located is permitted except where an Educational Facility is located on a corner lot, then said Educational Facility is allowed two (2) free-standing signs, one (1) facing each street that borders the lot. Maximum size of such free-standing signs shall not exceed sixteen (16) square feet in surface area per side of sign up to a maximum of thirty two (32) square feet of aggregate surface area. In addition, each Educational Facility shall be allowed one (1) bulletin board not to exceed twelve (12) square feet of surface area (which may be a wall sign or a free-standing sign). Free-standing signs shall not exceed eight (8) feet in height.

Each Educational Facility located more than one hundred fifty feet (150') from a major thoroughfare or collector street shall be allowed one (1) directional sign.

These signs may be located on private property, with the written permission of the owner, at the nearest intersection of the major thoroughfare or collector street to the site of the Educational Facility.

1004.3 Signs on Window Glass. Signs on window glass, regardless of size.

1004.4 Private Traffic Signs. Private, unofficial traffic signs not exceeding two (2) square feet in surface area per side of sign up to a maximum of four (4) square feet of aggregate surface area per sign, which indicate directions, entrances, and exits. Such signs shall be located entirely on the property to which they pertain and shall not contain any advertising message.

1004.5 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.

- 1004.6 Public Notice. Official notices posted by public officers or employees in the performance of their duties.
- 1004.7 House Numbers and Nameplate 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.
- 1004.71 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.
- 1004.72 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).
- 1004.73 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.
- 1004.74 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.
- 1004.75 The Zoning Official 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.
- 1004.8 Nameplate Signs. Nameplate Signs are permitted and may include House Numbers.
- 1004.9 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. 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, shall not have more than two (2) display sides per sign, and shall be removed within seven (7)

days after the election or referendum. Political signs may not be illuminated.

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 and shall be attached to the residence. 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 of sign up to a maximum of thirty two (32) square feet of aggregate surface area per sign. 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 conditional use in residential Districts shall be allowed one (1) free-standing 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 of sign up to a maximum of sixteen (16) square feet of aggregate surface area for said sign. 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 by the conditional 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 Signs. One (1) ground sign not to exceed the following surface area limitations: Sixteen (16) square feet in surface area per side of sign, up to a maximum of thirty two (32) square feet of aggregate surface area for the entire sign.

1005.22 Wall Signs. Each establishment located in the Zoning Districts set forth in Section 1005.2 shall be allowed wall signs in accordance with the following provisions: One (1)

wall sign located on the street frontage side of the Building not to exceed sixteen (16) square feet.

- 1005.3 Temporary Signs Allowed in All Zoning Districts. Temporary signs, flags, or banners advertising the initial openings of businesses, establishments, special events or special sales may be permitted provided the location of such signs is approved by the Town Administrator or the Zoning Official. Such signs may be free-standing or attached to any part of the Building wall and said sign shall not exceed thirty (30) square feet in aggregate surface area and shall meet all other requirements.
- 1006 Non-Conforming Signs. No person shall erect any sign which does not conform to the requirements of this Article.
- 1006.1 Requirements for Bringing Non-Conforming Signs into Compliance. All non-conforming signs shall be removed or conformed to this Article within one year of the effective date of this Article.
- 1006.2 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 of a non-conforming sign is altered, the non-conforming sign must be removed or conformed to this Article at the time of the redesign.
- 1006.3 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.
- 1006.4 Relocation of Non-Conforming Signs. A non-conforming sign may be relocated on the same premises on which it is located and the relocation brings the sign into conformity.
- 1006.5 Removal of Non-Conforming Signs. Any non-conforming sign existing on the effective date of this Article shall be removed within the time limits established by this Article. Any non-conforming sign erected after the effective date of this Article shall be removed immediately. Upon the failure of the owner or lessee of the non-conforming sign to remove it, the Building Inspector shall order its removal and any expense of removal shall be billed to the owner or lessee of the non-conforming sign in accordance with Section 1001.9.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE XI - PLANNING AND ZONING COMMISSION

(Revised 12/02/2002); (Revised 4/06/2006)

- 1100 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. 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. § 160A-362.
- 1101 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 three (3) 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.
- 1102 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.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE XII - ZONING BOARD OF ADJUSTMENT

(Revised 6/14/2001); (Revised 11/14/2002)

- 1200 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. § 160A-362 and 160A-388.
- 1201 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 §160A-388. 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, or in his/her absence the vice-chair, may administer oaths. All meetings of the Board of Adjustment shall be open to the public.
- 1202 Appeal from the Decision of the Zoning Official. All questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Official. (See also Section 1203 D)
- 1203 Powers and Duties of the Zoning Board of Adjustment. The Zoning Board of Adjustment shall have the following powers and duties:
- A. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Zoning Official in the enforcement of this Ordinance.
 - B. Variance. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, due to the special conditions, a literal enforcement of the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial

justice done. 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. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that all the following conditions exist:

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or Structures in the same Zoning District;
- 2) Granting the requested variance will not confer upon the applicant any special privileges that are denied to other residents of the Zoning District in which the property is located;
- 3) A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the Zoning District in which the property is located;
- 4) The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare;
- 5) The special circumstances are not the result of the actions of the applicant;
- 6) The variance requested is the minimum variance that will make possible the legal use of the land, Building or Structure;
- 7) The variance is not a request to permit a use of land, Building or Structure which is not permitted in the Zoning District involved; and
- 8) Without the requested variance, the applicant may make no reasonable use of the property.

In granting a variance, the Board of Adjustment shall make written findings that all of the requirements listed above in 1203 (B) 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.

C. Conditional Use Permits. It shall be the duty of the Board of Adjustment to hear requests for Conditional Use Permits upon recommendation from the Planning and Zoning Commission and grant said permits in accordance with the guidelines set forth by this Ordinance (See Article VIII).

D. Appeals. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by an officer, department or board of the Town. Appeals shall be taken by filing with the Zoning Official and with the chair of the Board of Adjustment a notice of appeal, specifying the grounds thereof. Appeals shall be filed within thirty (30) days of the date that the person aggrieved or the officer, department or board of the Town has notice of the interpretation or administration of this Ordinance which constitutes grounds for the appeal. The Zoning Official shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken (See also Section 1204). An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Official certifies to the Board, after notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Official and on due cause shown.

1) In exercising the above powers, the Board of Adjustment may, in conformity with the provisions of this Act, reverse or affirm wholly or in part, or may modify the order, requirements, decision or determination and to that end, shall have all of the powers of the Zoning Official and may issue or direct the issuance of a permit or a Certificate of Zoning Compliance.

1204 Application Procedure. The Board of Adjustment shall hear and decide appeals from any decision or determination made by the Zoning Official and all requests for variances.

A. Filing Appeals and Applications. All appeals and applications for variance shall be filed with the Zoning Official, 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 Zoning Official, the Zoning Official shall immediately notify the Chair of the Board of Adjustment that such appeal or application has been filed.

B. Required Materials. All appeals or applications for variance shall be filed together with the following materials:

- 1) A neatly drawn map of the property which is the subject of the appeal or application, drawn to scale and showing the location of any Building and other improvement located on the property and showing any adjoining road;
- 2) If the appeal or variance concerns the elevation of a Building, a drawing showing the elevation of all Building sand improvements located on the property which is the subject of the appeal and application;
- 3) Letters from the person who filed the appeal or application addressed to the owners of all property located within two hundred (200) feet of the property which is the subject of the appeal or application and envelopes with postage affixed addressed to all such property owners;
- 4) 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
- 5) A fee set by the Town Council, with recommendations from the Board of Adjustment, which becomes nonrefundable when the Zoning Official 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.

C. 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 Official in order that he/she may inform applicants of the current schedule. All cases shall be heard within 60 days.

D. Notice of Hearing. The Board of Adjustment shall publish a notice of a hearing in the newspaper of general circulation in the Town weekly for two consecutive weeks at least ten (10) days before the hearing date. Such notice shall state the location of the property which is the subject of the appeal or application, the general nature of the appeal or application, and the time and place of the hearing.

1205 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 reverse any order requirement, decision or determination of the Zoning Official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation of this Ordinance. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Official and shall be public record. On all appeals, applications and matters brought before the Board of Adjustment, the Board of Adjustment shall inform, in writing, the applicant of its decisions. The Board of

Adjustment must also inform, in writing, all persons who specifically request at the meeting a copy of the decision.

- 1206 Appeals from Decisions of the Zoning Board of Adjustment. Any person who may have a substantial interest in any decision of the Board of Adjustment may appeal any decision of the Board of Adjustment to the Superior Court in and for the County of Buncombe by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board of Adjustment is rendered.
- 1207 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.

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.

TOWN OF MONTREAT

ZONING ORDINANCE

ARTICLE XIV - LEGAL STATUS PROVISIONS

Revised 1/08/2004)

1400 Conflict with Other Laws. Whenever the regulations of this Ordinance require a greater width or size of yards, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern. Where this Ordinance imposes a greater restriction on the use of land or Buildings than other rules, ordinances, or regulations, the provisions of this Ordinance shall be construed to amend or repeal any other existing ordinance in the Town of Montreat.

1401 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) or imprisonment not to exceed thirty (30) days as provided by N.C. G.S. § 14-4 and § 15A-1340.23 and in addition thereto such violation may be enjoined and restrained as provided in N.C. G.S. § 153A-123. Each day such violation continues, shall constitute a separate offense (Reference North Carolina General Statutes 160A -175).

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

1400.1 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 a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. 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 therefore, and the conditions under which the work may be resumed. (b) 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 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 designee, with a copy to the local inspector. The Commissioner of Insurance or his designee shall promptly conduct an investigation and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his designee shall 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 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: (1) Appealing to the Building Code Council, or (2) Appealing to the Superior Court as provided in G.S. 143-141. (c) The owner or builder may appeal from a stop order involving alleged violation of a local 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 the ordinance, or if none is specified, within a reasonable time. No further work shall take place in violation of a stop order pending a ruling. (d) Violation of a stop order shall constitute a Class 1 misdemeanor.”

1402 Repeal of Previous Zoning Ordinance. The 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.

A. 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 prefiled, shall be prosecuted to their finality.

1403 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.

1404 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.

1405 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;
 - 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.

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 fulva		Day Lilly		
Groundcover	Hosta	Many	Many	Hosta, Plantain		
Groundcover	Juniperus	Horizontalis		Creeping Juniper	*	
Groundcover	Pachysandra	Alleghaniensis or procumbens		Alleghany Spurge	*	*
Groundcover	Pachysandra	Terminalis		Japanese Spurge	*	
Groundcover	Phlox	Subulata		Thrift	*	
Low Shrub	Callicarpa	Dichotoma		Beautyberry		
Low Shrub	Ceanothus	Americanus		New Jersey Tea		*
Low Shrub	Cotoneaster	Horizontalis		Rockspray Cotoneaster	*	
Low Shrub	Deutzia	Gracilis		Slender Deutzia		
Low Shrub	Diervilla	Sessifolia		Southern Bush		*
				Honeysuckle		
Low Shrub	Euonymus	Americanus		Evergreen Bittersweet	*	
Low Shrub	Hydrangea	Arborescens		Snowhill Hydrangea		*
Low Shrub	Hypericum	Profilicum		Shrubby St. John's Wort		*
Low Shrub	Juniperus	Communis	Depressa	Prostrate Juniper		
Low Shrub	Leucothoe	Fontanesiana		Drooping Leucothoe	*	*
Low Shrub	Mahonia	Aquifolium		Oregon holly-grape	*	
Low Shrub	Pieris	Japonica		Japanese Andromeda	*	
Low Shrub	Potentilla	Fruticosa		Bush cinquefoil		
Low Shrub	Viburnum	Acerifolium		Maple-leaf Viburnum		*
Med. Shrub	Abelia	Grandilora		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		*

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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	*	*
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	Fragrantissima		Winter Honeysuckle		*
Tall Shrub	Philadelphus	Inodorus		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		*
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	Pensylvancia		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		*

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Large Tree	Acer	Rubrum		Red Maple		*
Large Tree	Acer	Saccharum		Sugar Maple		*
Large Tree	Aeculus	Flava		Yellow Buckeye		*
Large Tree	Betula	Allegheniensis		Yellow Birch		*
		(Lutea)				
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		*
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		*