Town of Black Mountain
Planning & Development
304 Black Mountain Avenue • Black Mountain • North Carolina • 28711
Phone: 828-419-9300 • Fax: 828-669-2030 • TDD: 1-800-735-2962

January 1, 2026

Chair to the Board of Adjustment
160 Midland Avenue
Black Mountain, NC 28711

VIA Email and Regular Mail

RE: 1114 Montreat Road Appeal to the Board of Adjustment

Dear Chair,

Pursuant to NCGS §160D-405 (e), please find enclosed the Record in the above-referenced case, which I am transmitting to the Board of Adjustment. If you have any questions, please do not hesitate to contact me.

Sincerely,

Jennifer Tipton
Clerk to Board of Adjustment

Enclosures

CC: Frank Cappelli
NC Baptist Men on Mission
Brian Gulden, Esq.
Cindy Rice, Esq.
Board of Adjustment Members
Russell Cate, Planner I/Zoning Administrator
Michelle Kennedy, Planning Director

BEFORE THE TOWN OF BLACK MOUNTAIN BOARD OF ADJUSTMENT
BUNCOMBE COUNTY

FRANK CAPPELLI)
APPEAL OF ZONING ADMINISTRATOR DECISION)
1114 MONTREAT ROAD)
BLACK MOUNTAIN, NC 28711)

RECORD

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Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 12:57 PM
To: Jennifer Tipton
Subject: FW: information about 1114 Montreat Road (Buncombe County Property ID Number [PIN] 071041779500000)
Attachments: Sec. 1.2.3 - Definitions.pdf; Chapter 4 - Zoning Regulations.pdf; Chapter 5 - Additional Use Standards for Specified Uses.pdf

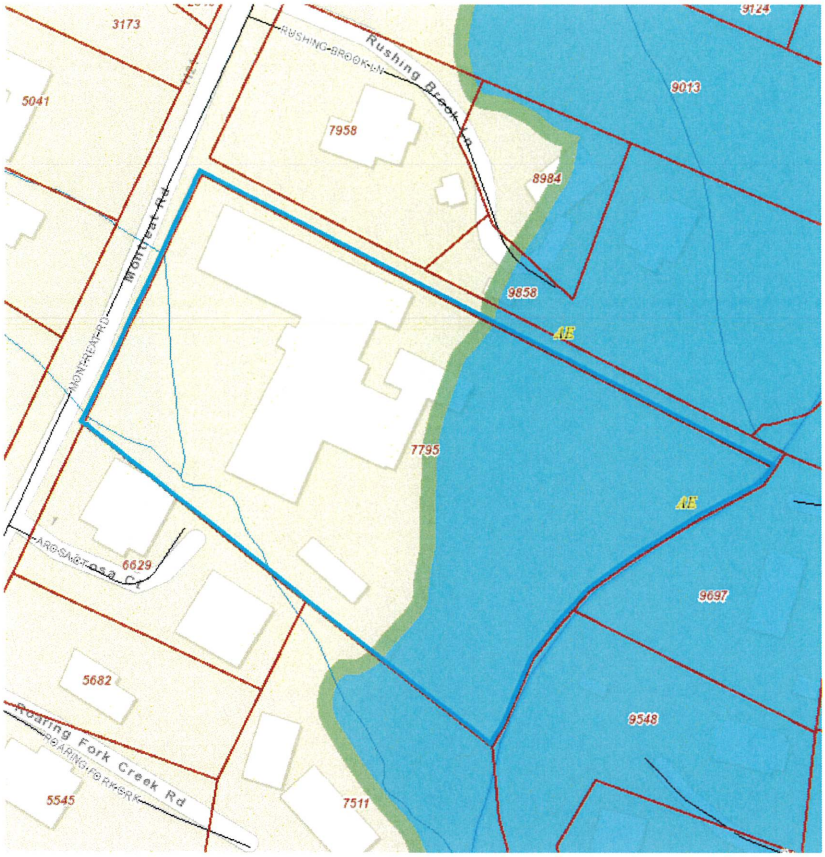
Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Monday, April 21, 2025 3:50 PM
To: tford@ncbaptist.org; tholder@ncbaptist.org
Subject: information about 1114 Montreat Road (Buncombe County Property ID Number [PIN] 071041779500000)

Hi North Carolina Baptist Men,
Buncombe County lists North Carolina Baptist Men as the owner of 1114 Montreat Road (Buncombe County Property ID Number [PIN] 071041779500000), so I'm sending this information in case it's helpful.

TECHNICAL REVIEW MEETING
A "pre-application consultation and technical review" is required for any work within the federal blue AE zone, so please let me know if you get to a point of planning to do work and I'll schedule the meeting. I need at least two weeks notice to schedule the meeting, which is attended by Flood, Stormwater, Fire, Building, and Zoning staff.



[source: Buncombe County GIS]

FLOOD (see Section 2.3 of Chapter 2 is the Flood Damage Prevention Ordinance)**:**
Any development in the federal blue AE zone (**see blue-shaded area in clip from Buncombe GIS above**) requires a Floodplain Development Permit. "Development" means any human-made change including building of structures, addition of gravel, etc.
NC Flood Risk Information System: https://fris.nc.gov/map



[source: USGS *topoBuilder*]

WATERCOURSE BUFFER (see Article IX in Chapter 20)**:**
Article IX in Chapter 20 is *Stream Buffer Protection Standards*. The standards apply to all watercourses shown on U.S. Geological Survey (USGS) 7.5-minute topo maps – **see the clips from USGS *topoBuilder* [** https://topobuilder.nationalmap.gov/ **] and Buncombe GIS above**.

The following must be clearly indicated on all development plans:

- **Stream Buffer**: **30 feet** on both sides of watercourse: only things like natural-surface trails.
- **Transitional Area**: **additional 20 feet** on both sides of watercourse: only pervious materials.

USGS definition:
Channel (watercourse): An open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. River, creek, run, branch, anabranch, and tributary are some of the terms used to describe natural channels. Natural channels may be single or braided (see Braiding of river channels). Canal and floodway are some of the terms used to describe artificial channels.

ZONING (see Chapter 4)**:**
Note Section 4.5.3: no more than one principal building and its accessory structures per lot unless the development is happening via a Special Use Permit, or a couple of other situations. (The maximum number of accessory structures allowed is two per lot; for detail on accessory structures, see Section 4.5.4. An accessory structure is "a structure detached from a principal building and located on the same lot and incidental and subordinate to the principal building or use which is not used as a dwelling unit.")

The parcel is zoned Urban Residential (UR-8). *Uses:* See the Table of Uses in Section 4.7.14 and use the ***UR-8*** column.

- Blank box: use is not permitted.
- **P**: use is permitted by right.
- **A**: use is permitted in the context of additional requirements (see the attached Chapter 5; Section 5.3 in Chapter 5 covers the use ***Boarding House***).
- **S**: use is permitted via a Special Use Permit (see Chapter 7; let me know if you want me to email Chapter 7).

If any terms aren't clear, see the attached Section 1.2.3.

For **setback requirements**, see *Minimum Yard Requirements* in the table in Section 4.7.15.

STORMWATER (see Section 8.2 of Chapter 8)**:**
The Phase II Stormwater Ordinance is triggered when 5,000 square feet of impervious surface is added with a **common plan of development**. In other words, if you're going to develop several parcels the 5,000 square feet of impervious surface is calculated across all parcels. Required:

- a stormwater permit
- Stormwater Control Measure, which has maintenance and inspection requirements for the property owner

Definition: Impervious surface area is a developed area of land that prevents or significantly impedes the infiltration of stormwater into the soil. Swimming pools and wooden decks are not considered impervious. Examples of impervious area: house footprint; driveway or parking area – asphalt, concrete or gravel; concrete walkway or patio; covered porch; accessory structure.

CODE OF ORDINANCES: www.townofblackmountain.org – hover over *Government*, then click on *Code of Ordinances*

Permit Application System (GovWell): https://app.govwelltech.com/black-mountain
Put "N/A" for items that are not applicable.
If you have questions about the permit application process, contact Jennifer Tipton, Permit Coordinator, at Jennifer.tipton@tobm.org, 828-419-9371.

Thank you.

Russell B. Cate, CZO

Planner, Zoning Administrator
Planning & Development Department
russell.cate@tobm.org 828-419-9373
www.townofblackmountain.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711

1.2.3 Definitions. *Amended 12-9-2024*

Abut: Having a common boundary or lot line not separated by a street, alley, railroad or other right-of-way (distinguished from adjacent which can include abutting property or those across a street).

Access management: Techniques for providing access to land in development while simultaneously preserving the flow of traffic on the surrounding road system in terms of safety, capacity and speed.

Accessory dwelling, accessory apartment, or *secondary dwelling:* A dwelling unit located on the same lot as a detached single-family house, such as garage apartments or "granny flats," but which is smaller in size than the principal structure (see also under dwelling and refer to guidelines for secondary dwellings, chapter 5).

Accessory structure: A structure detached from a principal building and located on the same lot and incidental and subordinate to the principal building or use which is not used as a dwelling unit.

Accessory use: A use of land or of a building or structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Acre: means 43,560 square feet.

Additional required protection features: Fire suppression equipment that is installed in a structure and designed to lessen the exposure to potential fire damage, such as automatic fire protection and alarm systems or other features that provide increased levels of fire protection.

Adjacent: Either abutting or being directly across a street.

Administrative decision: Decision made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in these development regulations. Also known as "ministerial".

Administrative hearing: A proceeding to gather facts needed to make an administrative decision.

Adult day care center: A day care program for adults operated in a structure other than a single-family dwelling.

Adult day care home: A day care program for up to 16 adults operated in a single-family dwelling.

Adult establishment: An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in N.C.G.S. § 14-202.10.

Affordable: A sales price or rent within the means of a low- or moderate-income household as defined by state or federal legislation within Buncombe County.

Agriculture: The science, art and business of cultivating the soil, producing crops and raising livestock, including the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; fisheries, trout farms, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation program. See chapter 5.4. The term "agriculture" shall also include state NCGS definitions for "Bona fide farm" and:

Boarding stable: A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises receives compensation.

Breeding farm: An agricultural establishment where animals are impregnated either naturally or by artificial insemination, and the principal purpose of which is to propagate the species.

Farm: A parcel of land used for agricultural activities.

Farm stand: A temporary or permanent structure established only for the display and direct sale of farm products and home-made crafts which is less than 150 square feet in total area including display tables. This term shall include the temporary use of a vehicle such as a pick-up truck for the display and sale of farm products.

Farm structures: Any building or structure used for agricultural purposes.

Feedlot: A confined area or structure, pen, or corral, used to hold and feed livestock.

Market gardening: Cultivating herbs, plants, fruits, flowers, vegetables and home-made crafts for sale through local markets, including by not limited to tailgate markets, farmers markets, florists and produce stands, or for sale to restaurants or other establishment which serve them to the public.

Nurseries: Land or structures used to raise flowers, shrubs, and plants for sale, including greenhouses.

Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Amusements: Establishments engaged in providing entertainment for a fee, including arcades, bowling alleys, billiard or pool halls, miniature golf and any coin-operated machines or devices whether mechanical or electronic for use as a game; entertainment or amusement.

Animal boarding or *kennel services:* A commercial establishment in which dogs or other domesticated animals are housed, groomed, bred, boarded, trained or sold, for a fee or compensation.

Animal grooming services: Establishments primarily engaged in providing grooming services to domesticated animals.

Animal hospital: Establishment of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals; and establishments primarily engaged in providing testing services for licensed veterinary practitioners.

Animal or *veterinary clinic:* A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Apartment unit: One or more rooms with a private bath and kitchen facilities comprising an independent self-contained dwelling in a building containing three or more dwelling units.

Art studio: The workshop of an artist, sculptor, photographer or craftsperson.

Assisted living facility: A facility offering a combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living.

Automobile parking: Parking of operational and street legal motor vehicles on a temporary basis within an offstreet parking area.

Automobile services or *stations:* Any building, garage, land area, or other premises or portion thereof, used for dispensing or selling vehicular fuels, or servicing and repair of automobiles. (also see "neighborhood fueling facility" which is distinct from this category). This term shall include:

Automobile wash, car wash or *detail shop:* Any building or premises or portions thereof used for cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers.

Automobile body shop: Any premises which repairs, paints or works on the exterior of vehicles, including window repair and tinting.

Audio installation: Any premise which installs or repairs vehicle audio systems.

Automobile rentals: Establishments primarily engaged in renting passenger cars without drivers, generally for short periods of time.

Automobile sales: The use of any building, land area, or other premises for the display and sale of new or used automobiles, light trucks, vans, trailers, or recreational vehicles.

Automobile wrecking/salvage: An establishment that cuts up, compresses or otherwise disposes of motor vehicles.

Awning: A structure made of cloth, metal, or other material affixed to a building in such a manner that it shades windows or doors below, but is not a constructed canopy.

Bakery, retail: An establishment primarily engaged in the sale of bakery products. The products may be purchased from others or made on the premises.

Bakery, wholesale: Establishments primarily engaged in manufacturing fresh or frozen bread and bread-type rolls and fresh cakes, pies, pastries and other similar "perishable" bakery products for wholesale.

Bank: A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Bar: Premises used primarily for the sale or dispensing of alcoholic beverages in accordance with state and local laws for on-site consumption and where food is not necessarily provided.

Barber/beauty services: An establishment primarily engaged in furnishing beauty or hairdressing services which will include those providing tanning services, facials, pedicures, and manicures.

Basement: A building story where the floor level is more than four feet on average below the finished grade.

Bed and breakfast home: A private, owner-occupied residence with one to 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 the equivalent of one full-time employee in addition to the owner..

Bed and breakfast inn: A private, owner-occupied business with five to 12 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..

Bedroom: See *sleeping room*.

Boarding house or *rooming house:* A dwelling unit or part thereof in which, for compensation, lodging and meals are provided on a minimum of a weekly basis for at least three, but less than ten, unrelated individuals and where the owner or manager is a full-time resident of said establishment. Excludes hotels, motels, bed and breakfast homes and bed and breakfast inns.

Brewery: An establishment engaged in the production and distribution of beer and other fermented malt beverages. The establishment may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Brew pub restaurant: An establishment in which the beer, ale, porter and other fermented malt beverages are produced and sold onsite as part of a restaurant.

Broadcasting services: An establishment engaged in transmitting audio and visual programs to the public, and includes a studio, transmitter, or antennas.

Buffer: A strip of land. The term buffer may include natural or planted vegetation, the area located between a structure or use and a side or rear property line, or any area intended to spatially separate and visually obstruct

the view of tow adjacent land uses or properties from one another, or any required screening, landscaping or stormwater that protect surface waters from runoff.

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 district and any open space requirements have been subtracted from the total area.

Building: A structure with a roof and walls built for permanent use. When used in reference to a residential structure, any one- or two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used for habitation for living, sleeping, cooking, or eating purposes or any combination thereof, including accessory structures.

Building, height of: The height of a building or structure as measured according to the guidelines of this code (see 4.5.2).

Building permit: Written permission issued by the building inspector for the construction, repair, alteration or addition to a structure.

Building materials sales: Establishments engaged in selling primarily lumber, or other general building materials, including, flooring, molding, doors, sashes, frames, roofing, siding, shingles, wallboard, paint, brick, tile, cement, sand, gravel, and other building hardware, materials and supplies.

Built-upon area (BUA): That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Business service: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising, mailing, copy and duplication services, building maintenance, employment services, management consulting services, protective services, equipment rental and leasing, commercial research, development and testing, and personal supply.

Camp, summer or *seasonal:* Establishments engaged in seasonal or overnight, recreational housing and conducting a variety of educational and athletic activities. These establishments provide accommodation facilities, such as cabins or fixed campsites, food services, on-site recreational facilities and equipment, or organized recreational activities.

Campground: A plot of ground upon which two or more campsites are located, established, and maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

Campus: The grounds and buildings of a public or private college, university, school or institution.

Carnival: Any aggregation of shows or riding devices, games of skill or chance, or any combination of shows and riding devices, or any combination of several enterprises, such as revolving wheels, merry-go-rounds, giant swings, panoramas, musical and theatrical entertainments, or riding devices, whether carried on or engaged in or conducted in any field, park, or in a building or enclosure, and whether carried on, engaged in, or conducted as one enterprise or by several concessionaires, and whether one admission fee is charged for admission to all such shows or entertainments, or separate fee for admission is charged for each amusement.

Carport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.

Ceiling height: The vertical distance from the finished floor to the finished ceiling.

Cemetery: A designated parcel of land used for the interment of the dead in the ground or in memorial structures such as mausoleums or columbarium. See also "Columbarium."

Certificate of appropriateness: Document certifying compliance with historic district guidelines.

Certificate of occupancy (CO): Document allowing occupancy or use of a building and certifying that the structure or use is compliant with local and state codes and ordinances.

Certificate of zoning compliance: A certification that a use or completed structure conforms to the provisions of the land use code and may be used or occupied. Also, a certification that plans for land development or construction conforms to the provisions of the town's regulations.

Child care or *day care center:* An establishment providing for the care, supervision and protection of children that meets the North Carolina Licensing Standards for Day Care Centers. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Code enforcement officer: Any employee of the town whose assigned duties include the enforcement of one or more of the provisions of the code.

Columbarium: A structure for placement of cremated remains which may be outdoors or part of a mausoleum or memorial, but is not necessarily associated with a cemetery.

Commercial use: Activity involving the sale of goods or services carried out for profit.

Communication tower: A structure intended to furnish radio, cellular or television or other point-to-point communication services, whether by wire or radio, but not including amateur radio antennas affected and controlled by FCC regulations codified in, Chapter 47, Section 97, of the Code of Federal Regulations.

Community center: A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency.

Community facility: A building or structure owned and operated by a governmental agency to provide a governmental service to the public.

Composting: A controlled process of degrading organic matter by micro-organisms.

Condominium: A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. (as distinct from a town home).

Conference center: A facility used for conferences, retreats and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities and meeting rooms.

Congregate care facility: A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs of the elderly. Congregate care facilities do not include nursing care institutions or similar institutions devoted similarly to the care of the chronically ill or incurable.

Conservation easement: A designation that grants one or more property rights to and for the public, a corporation, or other entity for the purpose of protecting environmentally sensitive or culturally or historically significant areas in perpetuity unless otherwise specified.

Conservation subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located and permanent open space is provided.

Convenience store: Any retail establishment consisting of no more than 3,500 square feet, offering for sale prepackaged food items, household items, newspapers, magazines, sandwiches or freshly prepared food for off-site consumption.

Cottage housing developments: A cluster of detached structures which are no larger than 1,100 square feet and which share common driveways, yards, and other exterior facilities.

Crematory: Establishments primarily engaged in operating sites or structures reserved for cremating the dead.

Cul-de-sac: The bulb-end design located on a short, dead-end street for the purpose of providing a turnaround for vehicular traffic.

Cultural or *community facilities:* Facilities designed to promote cultural advancement and serve the community such as art galleries, libraries, museums, art centers, community centers or facilities to house civic or fraternal organizations (provided that such facilities are not operated for profit).

Culvert: A conduit used to enclose a flowing body of water, and is frequently used to carry drainage water under a driveway, roadway, railroad, pedestrian walk or public way.

Curb: An improved boundary usually marking the edge of the roadway or paved area.

Curb cut: The opening along the curb line at which point stormwater, or motorized and non-motorized vehicles may enter or leave the roadway.

Demolish: The tearing down and disposal of an entire structure, leaving the property free and clear of any debris and without holes.

Demolition: The tearing down and disposal of an entire structure in a lawful manner, leaving the property free and clear of any debris or environmental hazards.

Density: The number of dwelling units per acre of residential land.

Deteriorated dwelling: A dwelling unit that can be repaired, altered or improved to comply with the minimum standards of the town's minimum housing code at a cost not in excess of 50 percent of its fair market value.

Determination: A written, final and binding order, requirement, or determination regarding an administrative decision.

Developer: A person who undertakes any development and who is the owner of the property. To be developed or who has been authorized by the owner to undertake development on that property.

Development: The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site or demolition of any structure; excavation, grading, filling, clearing or alteration of land; the subdivision of land as defined in N.C.G.S. 160D-802; the mitigation or substantial use of land or the intensity of use of land.

Development approval: An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including but not limited to zoning permits, site plan approvals, special use permits, variances, and certificates of occupancy.

Development permit: A development approval in writing that is required prior to commencing development or undertaking any activity, project, or development, including any of the following: zoning permits, site plan approvals, special use permits, variances, certificates of appropriateness, plat approvals, development agreements, building permits, subdivision plat approvals, driveway permits, and sign permits.

Development regulation: A zoning regulation, subdivision regulation, erosion and sedimentation control regulation, flood plain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, state building code enforcement, or any other regulation that regulates land use or development.

Diameter at breast height (DBH), or *caliper:* The tree trunk diameter measured in inches at a height of 4.5 feet above the ground. Generally used for measuring existing trees.

Dilapidated dwelling: Any structure of dwelling unit that cannot be repaired or improved in order to comply with the minimum standards of the town's minimum housing code at a cost less than 50 percent of its fair market value.

Discharge: The introduction, either directly or indirectly, of any effluent, whether illicit or non-illicit, into North Carolina surface waters. (See chapter 8.2, Phase II Stormwater Ordinance).

Distillery: An establishment engaged in the production and distribution of spirituous beverages. The establishment may include areas for demonstration, education, tasting, and other uses permitted in the district, in accordance with state and local laws.

Dormitory: A building which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

Drainage system: Pipes, swales, natural features, and man-made improvements which convey drainage.

Drip line: An imaginary vertical line extending from the outermost edge of a tree canopy or shrub branch to the ground.

Driveway: A private roadway providing access to a street or highway and serving less than four lots.

Driving range: A limited area on which golf players drive golf balls from a central driving tee, such area to include the driving tee and other incidental activities pertaining to this activity.

Dry cleaning: Establishments primarily engaged in providing dry cleaning, laundering, drop-off and pick-up sites or windows for laundry, or specialty cleaning services, without coin-operated machines.

Dumpster: Container designed to receive, transport and dump waste in conjunction with a hauling vehicle or truck. This definition includes containers used for recycling, oil containment, construction waste, or other materials and may be of varying size and design. This definition does not include containers used for waste or recyclable materials which may be wheeled or carried by hand, nor does it include temporary off-loaded dumpsters used for construction or yard waste which are removed after work is completed.

Duplex or *two-family residence:* A detached building which includes two individual dwelling units. A duplex may be held in single ownership or may be subdivided as a town home or condominium. It is a building designed as a single structure with two residential units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling unit.

Dwelling: Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied or that are occupied for living purposes.

Dwelling unit: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, including the following types:

Accessory dwelling or *accessory apartment:* A dwelling unit located on the same lot as a detached single-family house such as garage apartments or "granny flats," but which is smaller in size than the principal structure.

Apartment unit: One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

Condominium: A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Detached dwelling or *single-family unit:* A dwelling unit on its own lot, designed for one household and developed with no party walls and with open yards on all sides including modular homes, but not including manufactured homes, recreational vehicles, campers or motor vehicles.

Townhouse or *town home:* A single household dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, common fire- resistant walls. A subdivision of property within a townhome development, duplex or special use permit shall include the footprint of the structure directly underneath the dwelling unit plus any yard area designated to that unit as part of an approved master plan or building permit.

Easement: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Education facility: A facility for the education of children and adults including public and private elementary and secondary schools, colleges, technical institutes and universities, but excluding specialized trade schools and nursery school.

Egress: An exit from a parcel, lot or area of property.

Emergency Housing: The use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to declared federal, state, or local disaster, for people:

1. Experiencing homelessness or inadequate shelter resulting from disaster-related damages; or
2. Assisting with disaster recovery efforts through a unit of government, agency, nonprofit, or company.

(definition added 1-13-2025)

Emergency services: Buildings or facilities used to house, station, provide or support emergency services including fire departments, police departments, ambulance and EMS stations, fire and police substations and training facilities.

Encroachment: Any obstruction or intrusion into a delineated flood hazard area, right-of-way, or adjacent property.

Erosion: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice and gravity.

Evergreen: Those plants that retain foliage throughout the year.

Evidentiary hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

Excavation: Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances, other than vegetation, from water or land, on or beneath the surface thereof.

Existing lot (of record): A lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds 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.

Exit: A clear and unobstructed way of departure from the interior of a dwelling or commercial building to the exterior of the building at street or grade level.

Exterior features: The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

Extermination: The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food, or by poisoning, spraying, fumigating, trapping or other recognized and legal pest elimination method.

Extractive use/mining: Establishments that extract naturally occurring mineral solids, such as rock, coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

Family or *household:* A group of individuals not necessarily related by blood, marriage, adoption or guardianship, living together in a dwelling unit under single housekeeping unit.

Family care home: A home that provides room and board and personal care and rehabilitation and habitation services for no more than six resident persons with disabilities or handicapped persons. Handicapped persons are those with physical, emotional, and mental disabilities (as distinct from group home).

Farm: see "Agriculture."

Farm supply: Establishments primarily engaged in the merchant wholesale distribution of farm supplies, such as animal feeds, fertilizers, agricultural chemicals, pesticides, plant seeds, and plant bulbs.

Fence: A structural barrier intended to provide screening, prevent escape or intrusion, or to mark a boundary.

Financial and insurance services: Establishments engaged in financial services and transactions including banks, credit unions or agencies, savings and loans, check-cashing, brokerages, or other financial institutions.

Fire apparatus access road: A road that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway.

Flag lot or *interior lot:* A lot meeting the minimum lot requirements of the underlying zoning district but where access to the public road is by a portion of land adjacent to the lot between the "flag lot" known as a frontage lot and the street in a way that creates a private driveway. The driveway area therefore looks somewhat like a "pole" or "staff" connecting the lot to the street and can be referred to as the flag pole or flag staff of the flag lot.

Flea market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Freight handling facility: A facility providing terminals with the capability of handling a large variety of goods involving various forms of transportation such as rail to truck, truck to truck, or truck to air.

Funeral home: A building used for the preparation of the deceased for burial, the display of the deceased and rituals connected therewith before burial or cremation.

Garage: Deck or other structure, or part thereof, used or intended to be used for parking and storage of vehicles.

Garbage: Waste produced by the handling, processing, preparation, cooking, packaging and/or consumption of animal or vegetable products or other consumable goods, or other matter subject to decay or decomposition which generates noxious gases or offensive odors or that may serve as breeding or food material for rodents or other pests. This term does not include materials composting in closed containers or loose, yard waste which is gathered into a windrow or collected into a contained space.

Garden market: A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and

may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

Golf course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses.

Governmental facilities: Buildings, facilities and complexes used for the provision of governmental services, including solid waste, recycling, building maintenance, vehicle maintenance, administrative offices, warehousing and storage.

Green building: Buildings sited, designed, constructed and operated to enhance the well-being of occupants and to minimize negative impacts on the community and natural environment.

Greenhouse, accessory structure: An accessory structure constructed of rigid materials for both the roof and sides are permitted under accessory structure guidelines in this land use code.

Greenhouse, commercial: A building whose roof and sides are made largely of glass or other translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for sale.

Greenway: A dedicated and accepted public right-of-way for non-motorized transportation or as a linear open space established for conservation (usually along a natural corridor such as a riverfront, stream valley or ridgeline, or over land along a railroad right-of-way converted to recreational use, a canal, scenic road or other route identified in the town's greenway master plan).

Greywater, also known as sullage, is non-industrial wastewater generated from domestic processes such as dish washing, laundry and bathing. Greywater comprises wastewater generated from all of the house's sanitation equipment except for the septic tank (water from toilets is blackwater, or sewage).

Grocery or *supermarket:* An establishment which primarily sells a variety of food and general supplies for the table and other household uses.

Group home: A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are provided services to meet their needs such as halfway houses and foster homes so long as they house seven or more individuals and are distinct from group homes from developmentally disabled adults or adult care homes. Similar facilities providing care for less than seven individuals shall be treated as a single-family residence under zoning district regulations.

Habitable space: Any room or enclosed floor space used or intended for use for living, sleeping, cooking, or eating, including kitchens, but not including bathrooms, halls, corridors, pantries, storage space, or closets.

Health care services: Facilities whether public or private, principally engaged in providing health maintenance and treatment of mental or physical conditions, including medical or dental clinics, or doctors' offices. This definition shall also include certified massage therapists, acupuncture specialists and chiropractors who are licensed by the State of North Carolina.

Health club/fitness center: An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, or lockers.

Heavy timber construction: A type of construction in which the exterior walls are made of noncombustible materials and the interior structural building elements are of solid or laminated wood. To be considered heavy timber construction, supporting wood columns and roof framing shall not be less than six inches in width and eight inches in depth while floor framing members shall not be less than six inches in width and ten inches in depth. (See fire district overlay, chapter 4).

Heritage crafts: An enterprise that involves the production, sale, demonstration or teaching of a handcraft such as pottery, instrument making, spinning and dying yarn, hand weaving or woodworking using traditional methods.

Historic site: A structure or place of historic and cultural significance and designated as such by the Town of Black Mountain or by state or federal historic preservation agencies.

Home occupation: An occupation conducted in a dwelling unit or accessory building that is incidental and subordinate to its use for residential purposes by its occupants, and causes no change in the exterior of the dwelling.

Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and included related facilities such as laboratories, out-patient facilities, and staff offices which are in an integral part of the facility. This term includes sanitorium.

Hotel or *inn:* A facility offering lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

Impact fee: A fee imposed on a development to help finance the cost of improvements or services according to the direct or indirect effects of a proposed development on town services, infrastructure, or community goals.

Increased fire hazard: An increase in the volume of combustible material contained in an erected, repaired, altered or moved structure that is not offset by the installation of additional protection features; or changes in the building features that can increase fire movement from one building to another such as increasing the number of openings in exterior walls.

Industrial park: A tract of land, used primarily for industrial and related uses, that is under unified control and is planned, and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open space, and other site features and improvements.

Infestation: The presence within or around a dwelling of any insects, rodents, or other pests in such a manner as to threaten the health, safety or welfare of the occupants or public, or to undermine the integrity of the structure.

Ingress: Access or entry.

Instructional services or *studios:* Businesses with the function to provide classes and instruction, including, but not limited to, the martial arts, music, dance, specialized trade schools or visual arts and which are not subject to state licensing as public or non-public educational facilities (see educational facility).

Junkyard or *salvage yard:* The use of any lot, parcel, building, or structure, or part thereof, used primarily for the storage, collection, processing, purchase, sale, salvage or disposal of discarded items including recyclable or non-recyclable material such as paper, scrap metal, and machine parts. See also automobile wrecking/salvage.

Laboratories and research facilities: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Land, vacant: A lot or parcel of land that is partially or fully prepared for development (i.e., graded, utilities installed, access drive installed) on which no improvements that have been permitted or require permitting have been constructed.

Landscape: Lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

Laundromat: Establishments primarily engaged in operating facilities with coin-operated or similar self-service laundry for customer use on the premises. (Does not include dry-cleaning).

LEED: "Leadership in Energy and Environmental Design:" A voluntary, consensus-based national standard for developing high-performance, sustainable buildings. This program is sponsored by the U.S. Green Building Council.

Legislative decision: The adoption, amendment, or repeal of a regulation, including the decision to approve, amend, or rescind a development agreement.

Legislative hearing: A hearing to solicit public comment on a proposed legislative decision.

Loading zone or space: Space designated for pickups and deliveries and scaled to delivery vehicles, including tractor-trailers.

Lot: A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development.

Lot, corner: A lot located at the intersection of two or more streets or located where one street makes an angle greater than 80.

Lot depth: The mean horizontal distance between the front and rear lines.

Lot line: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot width: The mean horizontal distance between the two side lot lines.

Low-density project: A project that has no more than two dwelling units per acre or 24 percent built-upon areas (BUA) for all residential and non-residential development.

Lumber yard: An area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

Manufactured home or *manufactured housing:* A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein, or for which the manufacturer has voluntarily filed a certification required by the Secretary of HUD and which complies with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974.

Manufactured home park: Three or more manufactured homes or park models on a parcel of land or a site containing spaces with improvements and utilities that are leased for the placement of manufactured homes or park homes for residential purposes and that may include services and facilities for the residents.

Manufacturing or *manufacturing assembly:* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the fabrication of products, and the blending of materials, such as lubricating oils plastics, resins or liquors and which may take place indoors or out.

Manufacturing, light: Manufacturing activities taking place entirely indoors, including storage, and which do not emit any odor, noise, vibrations or chemicals outside of the building in which it is located.

Master plan: A comprehensive, long-range plan guiding the development of a tract of land or subdivision.

Medical clinic: A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. The term "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Meeting hall: A building designed for public assembly containing at least one room of at least 2,400 gross square feet.

Micro-brewery: An establishment engaged in the production and distribution of beer and other fermented malt beverages with a capacity not to exceed 5,000 barrels per year. The establishment may include areas for demonstration, education, tasting, and other uses permitted in the district in accordance with state and local laws.

Micro-distillery: An establishment engaged in the production and distribution of spirituous beverages with a capacity not to exceed 30,000 gallons per year. The establishment may include areas for demonstration, education, tasting and other uses permitted in the district, in accordance with state and local laws.

Micro-winery/cidery: An establishment engaged in the production and distribution of wine, cider, and other fermented fruit beverages with a capacity not to exceed 30,000 gallons per year. The establishment may include areas for demonstration, education, tasting, and other uses permitted in the district, in accordance with state and local laws.

Mixed-use structure: A building containing residential in addition to non-residential uses.

Mobile food court/food vendor court: A plot of ground upon which two or more spaces and associated amenities are regularly provided for use by mobile food vendors to offer food or beverages for sale to the public.

Mobile food vendor: Any mobile food unit, pushcart or motor vehicle, including all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle, which is purposed for the sale for consumption of food and beverages.

Mobile retail vendor: A motor vehicle, or trailer towed by another vehicle, designed and equipped to sell goods directly to consumers, excluding firearms, ammunition, tobacco and vaping products. *(definition added 12-9-2024)*

Mobile retail vendor, artisan: Artists or craftspersons who produce originally designed unique hand-crafted products and of high-quality, including crafts, inedible products, beauty and body products, excluding firearms, ammunition, tobacco and vaping products, and sell using a motor vehicle, or trailer towed by another vehicle. *(definition added 12-9-2024)*

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.

Multi-family dwelling: A single building containing three or more dwelling units.

Multi-use building: A building containing two or more distinct uses.

Mural: A graphic displayed on the exterior of a building, generally for the purposes of decoration or artistic expression, including but not limited to painting, fresco, or mosaic but excluding any commercial name, brand or message.

Neighborhood fueling facility: A facility for fueling vehicles be it gas, electric, or other fuel, which serves adjacent residential areas and accessory to a convenience store, which is designed to be compatible within a residential area in terms of design, lighting and hours of operation. It may also have additional accessory uses that provide neighborhood services.

Newsrack: A self-service, coin-operated or free dispenser installed, used, or maintained for the display and sale of newspapers, periodicals, or other published material, including real-estate, arts, or other journals.

Nonconforming: The state of not complying with the current ordinance. This term may apply to a lot, structure, or use which was lawful prior to the adoption, revision or amendment of the ordinance but that now fails by reason of such adoption, revision, or amendment, to conform to current development regulations.

Nursing care institution: A licensed healthcare facility, however named, governmental or non-governmental, which provides in-patient care to six or more non-related persons for whom planned and continued medical or nursing attention, or both, are indicated in contrast to the occasional or incidental care provided in congregate care facilities. A nursing care institution may be designed and marketed specifically for the elderly, physically

handicapped, or both, but not specific for mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)(b).

Occupant: Any person living, sleeping, cooking or eating in, or having actual possession of a dwelling.

One-year, twenty-four-hour storm (1-year, 24-hour storm): A 24-hour rainfall of intensity expected to be equaled or exceeded, on average, once in 12 months.

Open space: Any parcel or portion thereof or area of land essentially left in or returned to a natural state and set aside, dedicated or reserved for ecological or recreational purposes for public or private use.

Outdoor theater: An establishment for the performing arts with open-air seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions.

Owner or *landowner:* The holder of the title to land in fee simple. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Park: A tract of land designated and used by the public for active and passive recreation.

Park models or *park homes:* Recreation vehicles designed as living quarters for camping or seasonal habitation and built on a single chassis, mounted on wheels and having a gross trailer area not exceeding 400 square feet of living area. These are typically built with modular construction and are distinct from manufactured homes.

Party of interest: Any individual, corporation or entity having interest of record in a dwelling or property.

Pier: A post, pole or column of masonry, concrete, steel or lumber extending from a footing to and supporting the building or portion thereof.

Place of worship: A building or group of buildings or structures that by design and construction are primarily intended for conducting organized religious services and associated accessory uses. The term includes, but is not limited to, free-standing churches, synagogues, and temples, and to places of worship located within shopping centers or other buildings. This definition does not include nor is it intended to limit the use of private homes for religious practices, prayer meetings, or other religiously oriented uses as long as the use can conform to the same restrictions on traffic, parking and neighborhood impacts as a home-based business. Child care centers, schools, and recreational facilities developed as a part of the place of worship shall meet the standards for these individual uses as set forth for the zoning district in which they are located.

Planned unit development (PUD): A development of land under unified control that is planned and developed as a whole in a single development operation or programmed series of development stages, including developments permitted as "unified housing developments" and "unified business developments." The development may include streets, circulation ways, utilities, buildings, open spaces and other site features and improvements. These may include various types of residential density and may or may not include a mixture of uses where the lot may or may not be divided or retained in single ownership.

Plat, final subdivision: The final map showing the boundaries and location of individual properties and streets on which the exact subdivision plan is presented for approval and which, if approved, will be financially guaranteed or submitted to the county register of deeds for recording.

Plat, preliminary subdivision: A tentative subdivision plan, in lesser detail than the final plat, indicting the approximate proposed layout of a subdivision as a basis of study and consideration prior to the installation of improvements.

Playground: An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

Playhouse: A freestanding structure, exclusively for the use of children, with a maximum height of 12 feet and in an area not to exceed 120 square feet.

Plumbing: Any and all facilities connecting to water, sewer or gas lines.

Positive drainage: The construction of systems that slope in a way that allows for water to be directed away from the structure.

Premises: A building together with its immediate and adjacent grounds.

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

Principal use: The primary purpose or function that a parcel serves or is intended to serve.

Private clubs: Private organizations or business establishments using membership as a prerequisite to the purchase and consumption of alcoholic beverages on the premises, or using membership as a prerequisite to admission to the activities of the business if the purchase and consumption of alcoholic beverages on the premises is a part of the business or offered in conjunction with the principal activities of the business.

Private street: A non-public road for vehicular traffic, serving four or more lots.

Professional office: The office of a member of a recognized profession maintained for the conduct of that profession, such as those providing real-estate, legal, accounting, architecture, medical or survey services.

Quasi-judicial decision: A decision involving the findings of facts regarding a specific application of development regulations and that requires the exercise of discretion when applying the standards of the regulation.

Reasonable routine maintenance: Replacement of existing portions of a structure with like materials and design so as to avoid deterioration or further deterioration of the structure.

Recreation services, indoor: Establishments engaged in providing indoor recreation services. Indoor services may include public or private health or exercise clubs, tennis or other racquet ball courts, swimming pools, YMCA's or other similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Recreation services, outdoor: Establishments engaged in providing outdoor recreation services such as public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts, which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreation use is located. Outdoor recreation may include accessory uses, such as snack bars, pro shops, and clubhouses which are designed and intended primarily for the use of patrons of the principal recreational use.

Redevelopment: Any rebuilding activity other than a rebuilding activity that results in no net increase in built upon area and provides equal or greater stormwater control than the previous development.

Repair or *alteration:* Repairs or alterations to a building that exceed reasonable routine maintenance; that cost more than 50 percent of the current value of the building as listed in the assessed tax value; or that change the exterior finish, exterior configuration, number of openings in exterior walls, or the footprint of the building. If the structure has been damaged and is being repaired, the value of the structure shall be interpreted to mean the value before the damage or destruction occurred. (This term does not include emergency repairs needed to secure the structure from water, storms, or unauthorized access).

Residence: A structure or part of a structure containing dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartments. Residences do not

include: such transient accommodations such as transient hotels, motels, tourist cabins, dormitories, and recreational vehicles.

Resident: An individual whose principle place of living and sleeping is in a particular location is a resident of that location.

Restaurant, brew pub/tavern: An establishment in which beer, ale, porter and other fermented malt beverages are produced and sold onsite as part of a restaurant operation in accordance with state and local laws.

Restaurant, drive-thru: An establishment where food and/or beverages are sold in a form ready for consumption, where a portion of the pick-up and consumption of food may take place from an automobile. This term shall include "fast food" restaurants.

Restaurant, eat-in: An establishment where food and drink are prepared, served, and consumed primarily within the principal building, and which may also prepare food for take-out. Eat-in restaurants may or may not serve beer and wine in conjunction with their food service and in accordance with a state ABC permit.

Restaurant, walk-up: An establishment where food and/or beverages are sold in a form ready for consumption where pick up and consumption of food is designed to take place outside the confines of the structure, and which may also prepare food for take-out. Includes food vendors and stands.

Retail sales: Establishments engaged in selling goods or merchandise to the general public and rendering services incidental to the sale of such goods including tailoring or repair. This includes, but is not limited to, specialty shops and stores as well as:

Books, news, recordings retail: Establishments primarily engaged in the sale of books, magazines, or recordings for general consumption as opposed to adult entertainment use.

Clothing and personal accessories merchandise retail: Establishments engaged in the sale of personal clothing, jewelry, watches, shoes, luggage, hats, etc.

Drugstore or *pharmacy:* A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines, but where non-medical products may be sold as well.

Florist: Establishments primarily engaged in retailing cut flowers, floral arrangements, and potted plants purchased from others and including on-site preparation.

Garden center: Establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, and sod that are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves.

Hardware store: Establishments primarily engaged in the retail sale of a number of basic hardware lines, such as tools, hardware, paint, glass, house wares and household appliances, cutlery and other items.

Musical instruments retail and repair: Establishments engaged in the sale, re-sale and/or repair of musical instruments.

Outlet store: A retail establishment selling a single or limited number of a manufacturer's product.

Right-of-way: 1) a strip of land acquired by purchase, reservation dedication, forced dedication, prescription, or condemnation and intended to be occupied by a roadway, greenway, sidewalk, railroad, utility, storm sewer, or other uses; and 2) the right of one to pass over the property of another.

Rubbish: Solid waste, combustible or noncombustible, excluding food waste, vegetation waste and ashes, which have been discarded from residences, commercial establishments and institutions.

Sanitary sewage: Any liquid waste containing animal or vegetable matter in suspension or solution or the water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks,

dishwashers, or any other source of water-carried waste of human origin or containing putrescent material. See also "greywater."

Sanitary sewage system: Conveyance and treatment of sanitary sewage by the Metropolitan Sewage District, septic systems, or other systems compliant with state building codes.

Screening: A method of visually shielding or obscuring one abutting nearby structure from another by fencing, walls or densely planted vegetation.

Self-service storage facility or *mini-storage:* A structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Setback: The minimum distance by which any building or structure must be separated from a street right-of-way or lot line. Where no right-of-way is delineated and where property boundaries are located underneath the footprint of an existing road, then setback will be defined as the minimum distance between a building or structure and the edge of the roadway or back of curb. On NCDOT maintained roads where roadway right-of-way is not established, setback is the minimum distance between a building or structure and the back of the maintenance ditch or maintenance area (four feet from the edge of pavement).

Shared housing arrangements/community living: Dwellings, that offer communal areas and services such as housekeeping, transportation, organized social and recreational activities, and other support services for seven or more residents, but excluding assisted living facilities for the elderly or other medical facilities. See also "Group home."

Shopping center: A group of commercial establishments planned, constructed and managed as a total entity.

Short-term rental: Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

Sidewalk: A paved or otherwise surfaced area designed for pedestrian and wheelchair use.

Sign: Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed and used for the purpose of attracting attention or communicating a readable, comprehensive, legible message.

Site plan: A scaled drawing and supporting documents showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on a parcel or parcels of land, which may include site-specific details such as building areas, building height, floor area, setbacks and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

Sketch plan: An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings and the general layout of a proposed subdivision or development plan for use in technical review and plan development prior to the submittal of a master plan or preliminary plat.

Sleeping room, sleeping unit, or *bedroom:* A room designated as sleeping or bedroom on the plans and permit application. When no plan or permit application is available, a sleeping room, sleeping unit, or bedroom shall be defined as a room with a closet set up to act as a space for a person to sleep.

Special use permit: A permit issued by the board of adjustment in accordance with the principles, conditions, safeguards, and procedures specified in these regulations to authorize a specific use of land as required by these regulations.

Storm sewer or *stormwater sewer:* Pipe or conduit used to collect and carry away sewage or stormwater from generating sources to treatment plants, BMPs or receiving streams.

Stormwater: Stormwater from rainfall or snowmelt that runs off the ground or impervious surfaces like buildings, roads, parking lots, etc.

Street: A dedicated and accepted public right-of-way for vehicular traffic. This also includes the terms "roads," or "roadway."

Structure: Anything constructed, installed or portable, the use of which requires a location on a parcel of land, this includes a fixed or moveable building which can be used for residential, business, commercial, agriculture, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, above ground, below ground and permanent swimming pools, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

Subdivider: Any person who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision: All divisions of a lot, tract, or parcel of land into two or more lots, tracts, parcels, building sites or other divisions when any one of those divisions is created for the purpose of sale or building development (whether immediate or future) and includes all divisions of land involving the dedication of new streets or a change in existing streets.

Subdivision, exempt: The types of land divisions or combinations that are exempt from state and local subdivision regulations (per N.C.G.S. § 160D-802.

Subdivision, major: A subdivision, other than an exempt subdivision, and which requires the extension of public right-of-way and/or public streets, or where the entire tract to be subdivided is greater than five acres, or where the subdivision will result in five or more lots after the subdivision is complete.

Subdivision, minor: A subdivision, other than an exempt subdivision, which involves no new public streets or roads, and where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots will result after the subdivision is complete.

Substantial progress: For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Summer camp: A recreation and residential center for children or adults that specializes in outdoor activities and programs and which is accredited or seeking accreditation from the American Camp Association (ACA) or other recognized accreditation service.

Tattoo parlor/body piercing studio: An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Tavern: An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.

Temporary sign: A sign with or without a structural frame, not permanently attached to a building, structure, or ground and intended for a limited period of display.

Tenant: Any person who occupies a dwelling unit under a verbal or written lease or holds a legal tenancy in a dwelling.

Theater or *music hall:* A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical or other live performances. Areas for retail sale of food and beverages, including beer and wine in accordance with state ABC permits, are included in this definition as incidental to the primary use.

Townhome: A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. Additionally, ownership of a townhome includes the footprint of the unit itself as well as any common areas established as part of the development plan.

Traffic impact study (TIS): A report analyzing anticipated roadway conditions with and without an applicant's development, and recommending appropriate mitigation measures.

Transient: Occupancy of a dwelling unit or sleeping unit for not more than 30 days.

Travel Trailer: A vehicle primarily designed as a temporary or seasonal dwelling for travel, recreation, or vacation use, including moveable park model homes, recreational vehicles (RVs), and other similar vehicles. *(Definition added 1-13-2025)*

Truck stop: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. It may also include overnight accommodations or restaurant facilities primarily for truck crew use.

Undeveloped land: Land in its natural state.

Unfit for human habitation: Conditions exist within a dwelling or dwelling unit which violate or do not comply with the minimum housing standards established by the town.

Unsafe: State of a structure deemed dangerous because of unstable conditions of walls, overloaded floors, defective construction, dangerous wiring or heating systems, inadequate means of egress, susceptibility to fire or other cause or conditions that make the building unsafe for people to enter or live.

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.

Warehouse or *distribution center:* A building used primarily for the storage of goods and materials or an establishment engaged in the receipt, storage and distribution of goods, products, cargo or materials, including shipment by boat, rail, air or motor vehicle.

Warehouse, mini: Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.

Watershed or *natural drainage:* The drainage basin, catchments, or area of land that drains water, sediment, and dissolved materials to a common outlet along a stream channel.

Wholesale establishment: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

Winery/cidery: An establishment engaged in the production and distribution of wine, cider, and other fermented fruit beverages. The establishment may include areas for demonstration, education, tasting and other uses permitted in the district in accordance with state and local laws.

Wood or *frame structure:* A type of construction whose primary structural elements are formed by a system of repetitive wood framing members, not including heavy timber, metal frame, or masonry construction where the exterior walls are composed of noncombustible materials that support the roof load. (See fire district overlay, chapter 4).

Wood and yard waste facility: An operation which collects, stores and/or processes waste and accumulation of tree branches, tree limbs, bushes, shrubbery, cuttings or clippings usually created as refuse in the trimming or cutting of trees, shrubs or bushes, including parts of trees, plant clippings, prunings, leaves and other discarded vegetative material from yards and gardens. Processing may include chipping or mulching to reduce woody material by mechanical means into small pieces to be used for mulch or fuel.

Yard: An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in the ordinance.

Yard, front: A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

Yard, rear: A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at closest point to rear lot line.

Yard, side: A space extending from the front yard to the rear yard between the principal building and side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Zero-lot line lot: A lot created by the division of property along a shared wall of a single structure, with independent ownership for each unit.

Zone: A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings. The terms "district," "zone" and "zoning district" are synonymous and are used interchangeably throughout these regulations.

(Ord. No. O-21-16 , 12-13-2021; Ord. No. O-22-01 , 3-14-2022; Ord. No. O-21-20 , 1-10-2022; Ord. No. O-22-02 , 4-11-2022)

CHAPTER 4. ZONING REGULATIONS

4.1.1 Purpose and authority.

These zoning regulations are adopted to provide guidelines for the development of land in Black Mountain, pursuant to the authority granted in N.C.G.S. § 160D-702, consistent with the General Statutes of the State of North Carolina, the Town of Black Mountain Code of Ordinances, and the Comprehensive Plan to address the following public purposes:

1. To provide adequate light and air;
2. To prevent the overcrowding of land;
3. To avoid undue concentration of population;
4. To lessen congestion in the streets;
5. To secure safety from fire, panic, and dangers;
6. To facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
7. To promote the health, safety, morals, or the general welfare of the community.

SECTION 4.2 ZONING MAP

4.2.1 Designation of zoning map.

The map entitled Town of Black Mountain Zoning Map as adopted by the Town of Black Mountain Town Council and certified by the town clerk establishes the official zoning and overlay districts. This map will be maintained and posted at the Town of Black Mountain Planning and Development Department. Digital and paper copy versions of this map shall also be made available through the planning and development department for reference.

4.2.2 Interpretation of the zoning map.

A. Unless otherwise specified, zoning district boundaries run with property lines or the centerline of streets, alleys or other rights-of-way.

B. Boundaries indicated as following railroad lines run along a line midway between the tracks.

C. Boundaries indicated as approximately following the centerline of streams, rivers, channels or lakes follow the centerline of the waterway.

D. Where a zoning district boundary divides a land parcel under a single ownership into two districts, the requirements of the less restrictive zone shall be applied to the entire parcel and the zoning district boundary adjusted accordingly, provided that the zoning district boundary adjustment is a distance of less than 100 feet, otherwise, an application for rezoning must be filed pursuant to the process set forth in Chapter 1 of this Land Use Code.

E. The zoning administrator shall have the authority to interpret the district boundaries. Appeals of the zoning administrator's interpretation may be made to the board of adjustment.

4.2.3 Changes to official zoning district map.

Changes made to zoning district boundaries or other matters portrayed on the official zoning district map shall be made in accordance with the provisions section 1.5 of this Code. Changes shall be entered on the official zoning district map promptly after the amendment has been approved by the town council.

4.2.4 Town of Black Mountain Zoning Map.

This map and its boundaries shall be incorporated and made part of these regulations.

SECTION 4.3 GENERAL ZONING PROCEDURES

4.3.1 Conformance required.

A. No building or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the town zoning regulations.

B. No building or zoning permit shall be issued on new lots created by the subdivision of land unless:

1. The subdivision is exempt from the subdivision regulations;
2. The subdivision is a major subdivision and a preliminary plat has been approved; or
3. The final plat for the subdivision has been recorded with the Register of Deeds for Buncombe County.

C. Special uses are permitted upon compliance with the additional conditions imposed and as specified by the board of adjustment.

D. Unless otherwise specified by the regulations governing the district within which a project (new development or redevelopment) is located, all development must adhere to all development regulations, including but not limited to flood hazard prevention (see LUC chapter 2), stormwater (see LUC Chapter 8), lighting (see Town of Black Mountain Ordinances Chapter 20, Article VII), signage (see LUC chapter 9), parking (see LUC chapter 10), pedestrian planning and other requirements (see LUC chapter 4).

E. Amusements, solicitors, peddlers and itinerant merchants shall be allowed as provided in Chapter 9 of the Town of Black Mountain Code of Ordinances. Nothing in this chapter shall be construed or interpreted to preempt or supersede the town's adopted business regulations.

4.3.2 Minimum regulations.

Regulations set forth in this chapter shall be minimum regulations. If the district requirements set forth in this section differ with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

4.3.3 Zoning permits.

A. *Zoning administrator.* It is the intention of this chapter that all questions arising in connection with compliance with, and enforcement of, zoning regulations shall be the responsibility of the zoning administrator and that such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator.

B. *Zoning permit required.* No building, sign or other structure (except as otherwise provided in these regulations) shall be erected, moved, extended or enlarged or structurally altered, nor shall the use conducted within the structure change, nor shall any excavation or filling of any lot for the construction of any structure be commenced, nor substantial clearing, grading, or excavation be commenced, nor shall any change in the use of a property be commenced until a zoning permit is issued or the zoning administrator reviews and approves the issuance of permits required for such work. No zoning, building or grading permit shall be issued without first obtaining the approval of the zoning administrator who shall certify that the development described on the application complies with all existing zoning regulations.

C. *Zoning permit not required.* A zoning permit is not required, notwithstanding any other provisions of this ordinance, for the following:

1. Street construction or repair;
2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, or supporting poles or structures, located within a public right-of-way;
3. Temporary activities undertaken by local, state or federal governmental agencies related to emergencies, such as the provision of shelter during storms, floods or other civic needs, the use of modular or mobile homes or trailers for emergency management administration, and storm or flood clean-up and repair;
4. Mailboxes, birdhouses, flag poles, pump covers, and doghouses;
5. Signage that meets the exemption requirements of the sign regulations;
6. Interior alterations and renovations which do not alter the footprint or height of an otherwise conforming use and/or structure.

D. *Expiration of permits.* Any zoning permit issued in accordance with this chapter shall expire six months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured. If the permit recipient has proceeded with due diligence and in good faith and conditions have not changed substantially so as to warrant a new application, the zoning administrator may grant extensions for periods up to six months. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

SECTION 4.4 PROVISIONS GOVERNING ALL LOTS

4.4.1 Lot size and lot reductions.

A. All subdivision of property created after the effective date of this chapter must conform to the lot requirements of the district in which it is located.

B. In areas not served by a public or community sewer system, the minimum lot area shall be that necessary for safe on-site waste disposal system as determined by the county health department, but in no case, shall the lot be smaller than the required area for the zoning district in which it is located.

C. Subdivisions for the purpose of land conservation or for the dedication of open space which are exempt from the subdivision regulations in Chapter 3 of this LUC are exempt from the requirements of this chapter.

4.4.2 Lot access.

A. No building, structure or use of land for other than conservation purposes shall be established on a lot which does not have access to a public street directly or by means of an easement. Access shall meet the requirements as indicated in the Town of Black Mountain Standards and Details Manual and connect any lot that does not abut a street with the nearest reasonable accessible street to said lot. The strip shall be under the same ownership as the lot to which it provides access, or shall be an easement of record and appurtenant to the lot for which it provides access.

B. Up to three lots may share access by means of a shared right-of-way so long as each lot has off-street parking for two cars, which parking shall not be located within the right-of-way of the private drive. In cases where four or more lots share access through a common right-of-way, the right-of-way shall be considered and designed as a named roadway and meet the requirements of the Town of Black Mountain Standards and Details Manual.

   1. In a conservation subdivision, rights-of-way that cannot meet the road standards for a subdivision without compromising performance goals of the conservation subdivision requirements (see 7.5.4) and which access more than three lots must meet the approval of the public works director and fire marshal for the purpose of waste collection, snow removal and maintenance, and emergency vehicle access.

   2. In a development undertaken pursuant to a special use permit, the design of any shared parking and loading areas that also serve to access more than three residential units must be approved by the fire marshal.

C. Lots which include or are adjacent to perennial or intermittent surface waters as indicated on the most recent version of the 1:24,000 scale quadrangle topographic maps prepared by the USGS are subject to a 30-foot setback from the top of the bank of that surface water in accordance with phase II stormwater regulations. (see section 8.2.10)

4.4.3 Setbacks, corner lots and double frontage lots.

A. Yard and setback requirements shall be met unless variance is granted by the board of adjustment.

B. Minimum setbacks shall be measured horizontally from the origin of the setback as the right-of-way, or property boundary, to the nearest portion of the building or structure.

C. If the property line extends into a roadway or highway, then the setback line shall be measured from the edge of the roadway or back of the curb when computing setback requirements.

D. Wherever right-of-way has not been established, setback shall be measured from the outer edge of the existing drainage ditch running parallel and adjacent to the road, or four feet off the edge of pavement where no ditch exists, or from the edge of the traveled area on an unpaved road.

E. Public rights-of-way or easements for streets and roads shall not be considered a part of a lot or open space, or as front, side, or rear yard for the purpose of meeting yard requirements. Driveways, parking areas, loading zones, sidewalks, or greenways may encroach or be included within a yard setback without affecting the setback requirements (see also 4.4.7).

F. In developed areas where more than three structures already exist, the setback may be determined by the average setback on already built upon lots located wholly or in part within the same block and zoning district and fronting the same street. 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

setbacks be less than 15 feet, except in the CB, central business district, where the minimum setback is 12 feet.

G. No building or structure shall be placed within a roadway or highway right-of-way, except as otherwise provided in these regulations.

H. Any structure on a corner lot shall comply with the minimum setback (front yard) requirements of the street which it faces, and shall comply with 50 percent of the minimum front yard setback requirements, if applicable, on any other street which the corner lot abuts. In case of doubt as to which street a structure faces, or if a structure is built so as not to face any street, the zoning administrator shall determine which setback, side yard and rear yard requirements apply.

I. For lots having frontage on two or more streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the applicable district(s).

J. Allowable encroachments into required setbacks. The following may encroach upon required setbacks as set forth below unless specifically prohibited elsewhere in this chapter.

1. Sills, cornices, and similar ornamental features projecting from the principal building may encroach up to 18 inches into any required setback.

2. Bay windows, balconies, and similar features projecting from the principal building may encroach up to three feet into any required setback.

3. Decks, steps, uncovered porches, patios, and terraces may encroach into a required side or rear setback, but no closer than six feet to the side or rear property line.

4. Fences and walls.

5. If a handicapped accessibility or life safety feature cannot meet this requirement due to the location of an existing structure or other impeding site feature on a residential lot, the setback requirement shall be waived to the extent necessary to accommodate the accessibility or life safety feature.

4.4.4 Steep hillside setback allowance for residential lots.

A. On residential lots where the first 45 feet from the edge of the pavement exceeds 30 percent slope, front yard setbacks are adjusted as follows:

1. In CR-1 and SR-2, minimum front setback requirement is 25 feet.

2. In TR-4 and UR-8, minimum front setback requirement is 15 feet.

4.4.5 Location of buildings on irregularly shaped lots.

Locations of front, side and rear setback lines on irregularly shaped lots shall be determined by the zoning administrator in writing. Such determinations shall be based on the spirit and intent of the district regulations to achieve appropriate spacing and location of building(s) on individual lots. Appeals of such determinations shall be made to the board of adjustment following the procedures set out in section 1.7.2.

4.4.6 Visibility at intersections.

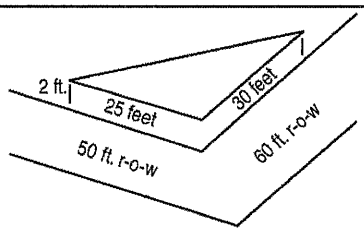
A. Uses located at a street intersection shall not have a dumpster or service area within 15 feet of the corner at the edge of pavement or the back of curb, whichever is closer.

B. Except for intersections within the central business district (CB), the sight triangle described below in paragraph C. shall be maintained on each corner of property at the intersection of two streets, a street and

an alley, a street and a railroad, and also at the point where driveways, private drives, or entrances to common parking areas intersect with a public or private street right-of-way. The sight triangle is a triangular area connecting the intersection of the right-of-way lines and the end points of the sight distance for the intersecting streets as set forth in the latest edition of the NCDOT subdivision roads minimum construction standards.

C. The following are the distances used to establish a sight triangle as measured from an intersecting right-of-way:

Right-of-way width	Distance (feet)
<50′	20′
50′	25′
60′	30′
70′	35′
80′	40′
90′	45′
100′ (or greater)	50′



D. A sight triangle shall contain no fence, structure, earth bank, hedge, planting, wall or other obstruction between a height greater than two feet above the grade of the crown of the adjacent road as established by the zoning administrator. The following are exempted from this provision:

1. Public utility poles and fire hydrants.
2. Trees trimmed (to the trunk) to a height at least nine feet above the level of the intersection.
3. Other plant species of open growth habit that are not planted in the form of a hedge and which are so planted and trimmed as to leave in all seasons a clear and unobstructed cross-view.
4. A supporting member or appurtenance to a permanent building or sign lawfully existing on the effective date of this ordinance.
5. Official warning signs or signals or other appurtenances required for traffic control.
6. Signs which conform to the sign regulations with supports that do not encroach on the clear-vision area.

E. The administrator (or his/her designee) may waive this provision where the natural contour of the ground is such that there can be no cross visibility at the intersection.

SECTION 4.5 PROVISIONS GOVERNING ALL BUILDINGS

4.5.1 Location of building lines.

Locations of front, side and rear building lines as oriented on a lot shall be determined by the zoning administrator. Such determinations shall be based on the intent of the town and district regulations to achieve appropriate spacing and location of buildings within parcels.

4.5.2 Height regulations.

A. No structure shall be erected or altered so as to exceed the height regulations of the district in which it is located.

B. Height shall be measured as the average vertical distance from the highest adjacent grade at the base of a structure at the corners of the structure, or from the grade of the centerline of the nearest adjacent public roadway, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

C. Where buildings are located on slopes, the average height will be calculated for each side of the building at its corners and at no side of the building should the maximum height from the adjacent grade be more than ten feet greater than the allowable building height for the district.

D. Chimneys shall not be included in the measurement of building height.

E. Steeples or towers associated with places of worship or government facilities, and water towers required for fire safety and water supply are exempt from these requirements.

F. Free-standing communications towers constructed pursuant to a special use permit are exempt from building height requirements of this section.

G. This section does not apply to amateur radio antennas affected and controlled by FCC regulations codified in Chapter 47, Section 97, of the Code of Federal Regulations.

H. Maximum building height for free-standing mechanical equipment appurtenant to the use, including chimneys, storage containers, tanks, water towers or chillers shall not exceed the maximum height of the district in which the use is located.

I. Mechanical equipment located on the roof shall not count towards the building height requirement and shall be screened to the greatest extent possible from the edge of the roadway of adjacent public roadways, with the exception of Interstate 40. Structural screening immediately adjacent and surrounding roof-top mechanical equipment is allowed in addition to or instead of a parapet for the purpose of visual screening and protection. Such structural screening for mechanical equipment shall not be at a height not to exceed the highest member of the mechanical equipment itself.

J. Parapets may be used in all districts and shall not count toward the building height requirements, as long as they do not add more than ten percent of footage to the overall building height above the maximum height for the district. Parapets may be used to meet the screening requirement for rooftop mechanical equipment. For example:

Max. Building Height	Max. Parapet (10%)	Max. Ht. with Parapet	District
55	5.5	60.5	LI-8
48	4.8	52.8	HI-0
40	4.0	44.0	CB, HB-8
35	3.5	38.5	CR-1, SR-2, TR-4, UR-8, OI-6, UR-8, ICD, TND

4.5.3 Principal buildings and structures per lot.

A. Every structure erected, moved or structurally altered shall be located on a single lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot unless:

1. As part of an approved industrial operation within either of the industrial districts (LI-8 or HI-0); or
2. As part of an approved special use permit; or
3. As part of a pre-existing nonconforming use; or

4. As a secondary dwelling.

B. Duplexes within a single lot will be treated as a single primary structure for the purposes of compliance with zoning district lot size and setback unless regulated by the minimum lot size and density table for steep slope lots. For separate units within a zero-lot line structure such as those for some types of townhomes or attached houses, the individual units will be considered the primary structure for each lot.

4.5.4 Accessory structures.

A. In no case shall an accessory structure be located closer than five feet to the nearest property line.

B. For land used for agriculture or as a bona fide farm that is greater than one acre, there is no limit to the number of accessory structures allowed, provided that such structures shall be incidental to the agricultural use and shall not cover more than 30 percent of the total lot area.

C. In industrial districts, there is no limit to the number of accessory structures provided that such structures are incidental to the industrial use.

D. In commercial districts, unless otherwise provided in a special use permit, no more than two accessory structures shall be permitted per lot.

E. In residential and mixed-use districts, no more than two accessory structures shall be permitted per lot, provided that any such structure shall meet the following requirements:

1. Accessory structures shall not be more than two stories.

2. For lots adjacent to town or state roadways, accessory structures shall be located only in the side or rear yards.

3. For lots not adjacent to town or state roadways, accessory structures may be located in what is determined as the front yard by the zoning administrator. The accessory structure may be located no further forward than the primary structure furthest from the road of any adjacent properties never to be less than the existing setback requirements.

4. Accessory buildings shall not cover more than 30 percent of the required side or rear yards. Accessory structures may require screening at the direction of the zoning administrator if the accessory structure may be considered a nuisance under the town's nuisance regulations or if it is being used for commercial purposes while abutting a residential use or district.

4.5.5 Use and location of dumpsters.

Dumpsters are allowed in all districts in accordance with the following standards:

A. All dumpsters must be maintained in good working condition and their exterior shall be kept clean, free of debris, accumulations or effluent.

B. No dumpster shall contain hazardous material unless it is designed to contain such material or is lined, and that such containment is approved by the environmental protection agency.

C. Dumpsters which contain oil and grease shall not leak.

D. Dumpsters must be screened from the public right-of-way and from abutting residential property boundaries. Screening shall be with an opaque wall or fence that is at least one foot higher than the dumpster itself. Vegetative buffers of evergreen of sufficient height and density to meet the opaque screening requirement and which are a minimum of ten feet in width, may be permitted in lieu of a structural screen upon approval of the zoning administrator.

E. Reserved

F. Screening provided to meet town requirements must be maintained in good condition and on a continuous basis.

G. Reserved.

4.5.6 General screening and buffering requirements.

A. Where a lot upon which a commercial or industrial use is occurring abuts a lot upon which a residential or mixed-use is occurring there shall be an opaque wall or fence of at least four feet in height along the property line. A vegetative buffer of at least ten feet in width and six feet in height and of sufficient density may be permitted in lieu of a structural screen upon approval of the zoning administrator.

B. Where a commercial or industrial use within a mixed-use district abuts a residential district, there shall be an opaque wall or fence of at least four feet in height along the property line. A vegetative buffer of at least ten feet in width and six feet in height and of sufficient density may be permitted in lieu of a structural screen upon approval of the zoning administrator.

SECTION 4.6 DISTRICTS ESTABLISHED

4.6.1 Base zoning districts established.

A. Base zoning districts are created to provide comprehensive land use regulations throughout Black Mountain. There are 12 base zoning districts that provide for a variety of uses appropriate to the character of the areas in which they are located. The Town of Black Mountain is hereby divided into the base zoning districts as reflected on the zoning map adopted pursuant to section 4.2.1 of this chapter.

B. The following zoning districts are established:

1. Conservation residential district (CR-1)
2. Suburban residential district (SR-2)
3. Town residential district (TR-4)
4. Urban residential district (UR-8)
5. Office and institutional district (OI-6)
6. Neighborhood mixed use district (UR-8)
7. Central business district (CB)
8. Highway business district (HB-8)
9. Light industrial district (LI-8)
10. Heavy industrial district (HI-0)
11. Traditional neighborhood development (TND)
12. Institutional campus district (ICD)

4.6.2 Conditional zoning districts established.

A. Conditional zoning districts are established to provide flexibility in the development of property while ensuring that proposed development is compatible with neighboring uses. Conditional districts allow for uses or development of land not otherwise permitted in the underlying base district. Conditionally zoned property may be subject to additional conditions, standards and regulations to ensure that the development and use of the property are compatible with the surrounding uses and consistent with the comprehensive plan and other plans adopted by the town. Conditional zoning should not be used to relieve hardships that could be resolved by issuance of a variance.

B. Conditional zoning districts. the following conditional zoning districts are established:

1. Conservation residential conditional zoning district (CR-1 CZ)
2. Suburban residential conditional zoning district (SR-2 CZ)
3. Town residential conditional zoning district (TR-4 CZ)
4. Urban residential conditional zoning district (UR-8 CZ)
5. Office and institutional conditional zoning district (OI-6 CZ)
6. Neighborhood mixed use conditional zoning district (NMU-8 CZ)
7. Central business conditional zoning district (CB CZ)
8. Highway business conditional zoning district (HB-8 CZ)
9. Light industrial conditional zoning district (LI-8 CZ)
10. Heavy industrial conditional zoning district (HI-0 CZ)
11. Traditional neighborhood development conditional zoning district (TND-CZ)
12. Institutional campus district conditional zoning district (ICD-CZ)

C. General requirements. The following provisions shall apply in the administration of conditional zoning.

1. No property shall be zoned as a conditional district except upon application of the owner or a duly authorized representative of the owner, pursuant to the procedure set out in section 1.5.5.
2. A conditional district shall consist of land that will be planned and developed as a single development or as an approved series of development phases. The owner or owners of the property shall be legally capable of ensuring that development of the property will comply with all documents, plans, standards, and conditions approved by the town.
3. All standards and requirements of the corresponding general use zoning district shall be met, except to the extent that the conditions imposed by the conditional zoning may be more or less restrictive than the development standards.
4. Only those uses permitted in the underlying zoning district, whether by right or specially, shall be permitted in the conditional zoning district. Uses not otherwise permitted within the underlying zoning district shall not be permitted within the conditional district.
5. No variance or special use permit may be issued for developments on property subject to a conditional zoning ordinance.

D. Conditions.

1. Site-specific standards and conditions may be imposed within a conditional district, provided such standards or conditions are approved by the town council and consented to by the petitioner in writing.
2. Standards and conditions may be proposed by the petitioner, by town staff, by recommendation of the planning board, or by the town council.
3. Standards and conditions imposed shall be limited to those that address the conformance of the development and use of the site to town ordinances and plans, or the impacts reasonably expected to be generated by the development or use of the site.

(Ord. No. O-21-07 , 8-9-2021; Ord. No. O-23-15 , 9-29-2023)

4.6.3 Overlay districts established.

Additionally overlay districts are created to further regulate land use, dimensional requirements, and site design in significant or sensitive areas of town.

1. Wellhead protection overlay
2. Flood damage prevention overlay
3. Historic overlays (historic district and historic conservation district)
4. Fire district overlay
5. Pedestrian master plan overlay
6. U.S. 70 corridor overlay

4.6.4 Other requirements.

A. In addition to zoning district regulations see the following sections for other requirements:

1. See chapter 3 for subdivision requirements.
2. See chapter 5 for additional use standards for certain uses.
3. See chapter 7 for special uses.
4. See chapter 8 for land development and environmental regulations.
5. See chapter 9 for sign regulations.
6. See chapter 10 for parking requirements.
7. See chapter 11 for infrastructure resources, contacts and requirements.

SECTION 4.7 ZONING REGULATIONS BY DISTRICT

See Section 4.7.15 for the permitted use table.

See Section 4.7.16 for the district dimensions standards table.

4.7.1 Conservation residential district (CR-1).

4.7.1.1 Purpose and intent. The conservation residential district is established to protect areas in which the principal use of the land is residential or agricultural and where steep slopes or other environmental features

make it more suitable for large lot development, conservation development and the preservation of open space.

4.7.2 Suburban residential district (SR-2).

4.7.2.1 Purpose and intent. The suburban residential district is established to protect areas in which the principal use of the land is single-family residential and where less dense development is preferred for the protection of slopes or environmentally sensitive areas, traditional single-family neighborhoods and the preservation of open space.

4.7.3 Town residential district (TR-4).

4.7.3.1 Purpose and intent. The town residential district is established to allow for a variety of housing types while maintaining an overall residential character with medium density. Any use which, because of its characteristics would interfere with the residential nature of the area is excluded.

4.7.4 Urban residential district (UR-8).

4.7.4.1 Purpose and intent. The mixed residential district is established to provide a variety of housing types, promote density in the more urbanized and developable areas or town, and structure the orderly development of residential neighborhoods.

4.7.5 Office and institutional district (OI-6).

4.7.5.1 Purpose and intent. The office and institutional district is established to provide transition between residential and commercial districts; to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety; to accommodate planned developments that are institutional in nature and which may have multiple buildings and uses within one property; and to protect property values of residential, institutional and professional uses within the district in a way that is mutually beneficial.

4.7.6 Neighborhood mixed use district (NMU-8).

4.7.6.1 Purpose and intent. The neighborhood mixed use district is established to serve the needs of the surrounding residential neighborhoods by providing compatible goods and services without negatively impacting the residential nature of the adjacent neighborhoods. It is also intended to establish areas for low-intensity business centers which are accessible to pedestrians from the surrounding residential neighborhoods.

4.7.6.2 Supplementary district requirements (NMU-8). New construction within this district shall retain the characteristics of a residential neighborhood and shall not include metal buildings or cinder block buildings as the primary structure on a lot. Newly constructed structures, unless part of a special use permit or an accessory structure, shall have a pitched roof and other characteristics of single-family homes within the adjacent residential neighborhoods.

4.7.7 Central business district (CB).

4.7.7.1 Purpose and intent. The central business district includes the area traditionally known as "downtown" and includes the "downtown historic district". This district is established to maintain the village-like community that preserves architectural heritage and small-town character of Black Mountain. It is intended to promote a safe, convenient, and attractive environment for pedestrians; promotes business in

buildings of a size and scale appropriate to a small town; encourage locally-owned businesses, entrepreneurs, and artists; provide a wide range of shopping, dining, working, and cultural attractions with storefronts that interact with the sidewalk; promote the beautification of the public rights-of-way; and encourage residential development that blends with the commercial character of the district and enhances the variety of housing options provided in the town.

4.7.7.2 Supplementary district requirements (CB).

A. Primary entrances to buildings must connect to sidewalks.

B. Existing sidewalks may be used for outdoor seating. Sidewalks may also be used for displays or temporary signs as permitted by Chapter 9 of this LUC as long as four feet (4' or 48"), as measured from the back of the curb toward the building, is maintained as free and clear passage for pedestrians and wheelchairs.

C. As part of new construction, sidewalks are required adjacent to state and town roadways and must be a minimum of six feet wide. Sidewalks intended for shared use with outdoor seating or retail displays must be a minimum of 12 feet wide.

4.7.8 Highway business district (HB-8).

4.7.8.1 Purpose and intent. The highway business district provides orderly growth along the town's major thoroughfares; promotes access management and traffic safety for all modes of transportation, encourages the redevelopment of existing commercial sites; creates economic opportunities ; promotes a safe, convenient and attractive environment for pedestrians to access good and services; creates gateways and entrances into the town along central corridors; and encourages residential development that blends with the commercial character of the district and enhances the variety of housing options provided in the town. Because of the objectives and characteristics of this district, it is located contiguous to major streets or within proximity to primary commercial districts.

4.7.8.2 Supplementary district requirements (HB-8).

A. Primary entrances to buildings must connect to sidewalks.

B. As part of new construction, sidewalks are required adjacent to state and town roadways and must be a minimum of five feet wide with a minimum two-foot planted strip between the sidewalk and the roadway.

C. For areas along U.S. 70, additional development requirements may apply. See Section 4.7.7.

4.7.9 Light industrial district (LI-8).

4.7.9.1 Purpose and intent. The light industrial district includes areas in which the principal use of the land is for light manufacturing, materials processing, warehousing, and retail operations incidental thereto. The district promotes moderate-sized, clean industries which provide jobs and career opportunities within the community; permits uses that are conducted so that noise, odor, dust and glare of each operation is completely confined within an enclosed building, insofar as is practical; encourages entrepreneurship and small business development; allows limited residential uses which do not conflict with the ability of industrial enterprises to conduct their businesses within the district area; and allows community facilities and convenience trade establishments which provide needed services to industrial development.

4.7.9.3[2] Supplementary district requirements (LI-8).

A. Documentation of permits required. Applications for a zoning permit for industrial, fabrication or manufacturing uses must include documentation of applicable state and federal permits, including documentation of regulatory compliance for handling and storage of hazardous materials, use of ammonia or other chemicals for heating, cooling or other mechanical operations as appropriate, and

the type and maximum amount of any hazardous materials that will be stored on site at any given time.

B. Applications for zoning permits must include copies of NCDOT driveway permit applications for concurrence review. Traffic management and access shall be designed to maximize safety and to channel truck traffic onto major state roads with as little secondary or town road exposure as possible. A traffic impact analysis may be required in accordance with the town driveway permit requirements when accessing town roads.

C. Operations on site, including free-standing mechanical equipment, chimneys, storage containers or tanks, water towers or chillers cannot cause excessive noise, vibration, smoke, odors, electrical or radio interference.

4.7.10 Heavy industrial district (HI-0).

4.7.10.1 Purpose and Intent. The heavy industrial district is intended to provide areas in which the principal use of the land is for general manufacturing, materials processing, warehousing or outdoor storage of materials, and retail operations incidental thereto; to promote clean industries which provide jobs and career opportunities within the community; permit uses that are conducted so that noise, odor, dust and glare of each operation impacts only other industrial uses; encourage entrepreneurship and business development; and to restrict residential uses which conflict with the ability of industrial enterprises to conduct their businesses within the district area; and to allow community facilities and convenience trade and fleet establishments which provide needed services to industrial development.

4.7.10.2 Supplementary district requirements (HI-0).

A. Documentation of permits required. Industrial, fabrication or manufacturing uses must provide documentation of applicable state and federal permits to the town, including documentation of regulatory compliance for handling and storage of hazardous materials, use of ammonia or other chemicals for heating, cooling or other mechanical operations as appropriate, and the type and maximum amount of any hazardous materials that will be stored on site at any given time.

C. Applications for zoning permits must include copies of NCDOT driveway permit applications for concurrence review. Traffic management and access shall be designed to maximize safety and to channel truck traffic onto major state roads with as little secondary or town road exposure as possible. A traffic impact analysis may be required in accordance with the town driveway permit requirements when accessing town roads.

4.7.11 TND traditional neighborhood development (master planned).

4.7.11.1 Purpose and Intent. The purpose of this district is to allow for the development of fully integrated, mixed-use pedestrian oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation. The provisions of this district are based on urban design and development conventions which were widely used in the United States from colonial times until the 1940's and were based on the following principles:

A. All neighborhoods have identifiable centers and edges.

B. The center of the neighborhood is easily accessed by non-vehicular means from lots on the edges (i.e. approximately one-quarter-mile from center to edge, or a five-minute walk).

C. Uses and housing types are mixed and in close proximity to one another.

D. Street networks are interconnected and blocks are small.

E. Civic buildings are given prominent sites throughout the neighborhood.

4.7.11.2 Master plan required.

A. A master plan in compliance with TND design standards and the general provisions of the subdivision regulations shall be provided with any application to reclassify a property to TND zoning. A rezoning request for TND zoning is contingent upon the approval of a master plan; if a master plan is not approved for the property, then it reverts to its previous zoning classification(s). No use or development of any property located in a TND district shall be permitted until a master plan, showing the proposed uses and development of the property, has been approved by the town council, upon a recommendation made by the planning board. Once the master plan has been approved, the developer must follow the processes and regulations set forth in the Town of Black Mountain's Subdivision Regulations to proceed with development of the property.

B. All submissions for approval shall include an agreement and approval by the associated TND master association governing the overall development. Specifically each new phase will have appropriate design standards and restrictions agreed upon and submitted to the appropriate county authority in the form of a supplemental master declaration. These additional design standards and restrictions shall be approved and filed prior to the commencement of any construction associated with that phase. The final plat submission and approval shall follow the same guidelines as the above preliminary plan.

C. The master plan shall be certified by a registered architect, registered landscape architect or certified planner.

D. If a developer proposes to construct the subdivision in phases, then the master plan shall be prepared for the entire property, and shall show the proposed phases of development. Each phase of development shall be preceded by the submission and approval of a preliminary plat for that phase, followed by the submission and approval of a final plat. In addition the master plan shall include:

1. An outline of any additional regulatory intentions or design guidelines,
2. Show intended phasing of development, and
3. Include any other information, e.g., conceptual building prototypes, which may be required to evaluate the interior pedestrian environment and conditions at project edges.

E. Approval process:

1. The owner or developer shall submit ten copies of the master plan to the zoning administrator for consideration by the planning board at least ten working days prior to the next scheduled meeting of the planning board.
2. The zoning administrator shall submit to the planning board at its next meeting any master plan that is in compliance with the design standards specified herein.
3. A filing fee shall be paid. Any master plan re-submitted within one year for substantially the same property shall not pay an additional filing fee. (0-99-09, adopted 6-14-99)
4. The planning board shall review a master plan submission or re-submission for no more than 180 days from the first meeting it is presented, in order to make a recommendation to the town council. Failure to make a recommendation accordingly shall cause the master plan to be forwarded to the town council without a recommendation. The applicant may withdraw a master plan by a written request to the zoning administrator. A withdrawn master plan may be re-submitted to the planning board for further reconsideration at a later time.
5. Before approving a master plan and subsequent rezoning, the town council shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.
   (a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.
6. Master plans not approved by the town council and subsequently revised shall be re-submitted through the approval process.
7. Approved master plans shall not be revised without re-submission through the approval process. However, minor amendments at the site plan level for specific land uses or developments may be approved by the zoning administrator, provided:
   - Building floor areas are not changed by more than 20 percent;
   - Building or structure heights are not increased by more than 20 percent;
   - Parking areas or spaces are not diminished by more than 20 percent;

- Relocated buildings or uses maintain the same general building relationships, landscaping and utility standards; and
- The amendment preserves compliance with any specific requirements of the TND district and the town's general guidelines;
- Appropriate HOA (master association) has reviewed and approved all revisions and submittals for a new phase commencement. This approval shall be in the form of a supplemental master declaration which is agreed to and approved by the master association.

8. Once a master plan has been approved, the project may proceed through the major subdivision and permitting processes outlined in the subdivision regulations of chapter 3, with the master plan being considered as a preliminary plat.

4.7.11.3 Development Parameters.

A. No minimum development size; however 40 acres is the recommended minimum size.

B. No maximum development size; however 200 acres is the recommended maximum size.

C. Maximum permitted densities and total number of dwelling units shall be established during the master plan review process.

D. Buffer requirements shall be established during the master plan review process. Property located on the perimeter of the TND district shall have setbacks and buffers that are consistent with the setbacks and buffers of the adjoining zoning district, including provisions for accessory buildings, but shall be a minimum of 15 feet.

4.7.11.4 Uses. Amended 9-9-2024, 12-9-2024, 1-13-2025

A. Permitted uses shall be based on the general category of use that has been established for a lot or group of lots in the **TND** master plan. The general land use categories are listed below with particular uses allowed and suggested amounts for each, expressed as a percentage of the total gross area of the neighborhood:

Use	Amount	Allowable Uses
Public	At least 5%	Parks, squares, greenbelts, sidewalks/walkways, streets, alleys ~~and~~ civic uses, **and emergency housing.** *(Amended 1-13-2025)*
Civic	At least 2%	Community buildings including meeting halls, libraries, post offices, schools, child care centers, clubhouses, religious buildings, recreational facilities, museums, performing arts buildings, ~~and~~ municipal buildings, **and emergency housing.**
Shop front	2% to 20%	Residential and commercial uses; approximately 50% of the building area shall be designated for residential use.* **Also, emergency housing.**
Attached Homes (Multi-Family)	15% to 30%	Buildings for residential use and limited commercial use, such as a coffee house, home occupation, ~~or~~ bed and breakfast inn**, and emergency housing.**

Detached Homes	30%	Buildings for residential uses, customary home occupational uses, ~~and~~ bed and breakfast inns, **and emergency housing.**
Business	5% to 15%	Office, bar/brewery, restaurant, brew pub/tavern, retail, including eating establishments, **mobile retail vendors*****, and other commercial uses provided they produce little or no noise, odor, dust or vibration** **Also, emergency housing.**

* Residential uses are not permitted on the ground floors of shop front buildings.

** Business uses shall be grouped together as follows: office and retail may be grouped with shop front buildings to form town centers. All other business uses shall be grouped together outside town and neighborhood center.

Mobile retail vendors shall allow up to 6 vendors per parcel and there is a limit of ten (10) mobile retail vendors allowed in the district. *(Amended 12-9-2024)

B. Special uses:

1. Cemeteries, mausoleums or columbaria.
2. Churches.
3. Electric power and public utility stations or substations and public utility transmission lines.
4. Fairgrounds.
5. Drive-thru restaurants.
6. Automotive services.
7. Community living facilities.
8. Laboratories.
9. Outdoor theaters.
10. Public or non-residential swimming pools.
11. Schools—Public or private.
12. Stalls or merchandise stands for outdoor sale of goods at street front.
13. Veterinarian offices.

C. Prohibited uses:

1. Any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, except service stations.
2. Carting, moving, or hauling terminal or yard.
3. Chemical manufacturing, storage or distribution as a primary use.
4. Enameling, painting or plating, except artist's studios.
5. Kennels.
6. Landfills.

7. Manufacturing, storage or disposal of hazardous waste materials.
8. Mobile homes.
9. Outdoor advertising or billboard as a principle use.
10. Parking lot as principal use.
11. Prisons, detention centers, or half-way houses.
12. Sand, gravel, or other mineral extraction.
13. Scrap yards.
14. Any use which produces the following adverse impacts; noise at a level greater than typical street or traffic noise, offensive vibration, emission of noxious solids, liquids, or gases.

*Large-scale, single-use facilities (e.g., conference centers, theaters, athletic facilities) shall generally occur above or behind smaller scale street front space.

4.7.11.5 Design standards.

A. *Neighborhood form.*

1. Dwellings at the edge of the neighborhood shall be roughly a five-minute walk to the center of the neighborhood.
2. A great variety of housing types and price ranges shall exist in the neighborhood, with the highest density of housing located towards the center of the neighborhood.
3. Within a neighborhood the following land uses shall be arranged to serve the needs of the residents in a convenient walking environment: open space/recreational areas, civic buildings, low and high density residential, retail/commercial, business/workplace, and parking.
4. The area of the TND shall be divided into blocks, streets, lots and open space.
5. Similar land uses shall generally enfront across each street. Dissimilar land uses shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.
6. Along existing streets, new buildings shall be compatible with the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
7. The appearance of the neighborhood should blend in with existing neighborhoods and feature the use of natural materials in construction.

B. *Lots and buildings:*

1. All lots shall share a frontage line with a street or public space; lots fronting on a public space shall have access to a rear alley.
2. Consistent build-to lines shall be established along all streets and public space frontages.
3. All buildings, except accessory structures, shall have their main entrance opening on a street or public space.
4. No structure shall exceed 35 feet in height.

C. *Inclusion of affordable housing:*

1. Ten percent of all units created, whether for rental or purchase, must meet the affordable housing thresholds established by Buncombe County Community Development. Affordable units must blend into the overall development and not be aesthetically distinguishable from the other units,

but may be of a higher density or smaller scale than other units within the development. For example, by making one of the buildings into a duplex, or by building a smaller sized unit of similar style, a developer can decrease their per unit cost and maintain the architectural integrity of their design.

2. Instead of constructing affordable units, developers may opt to convey an undeveloped lot or lots within the development for construction by a town approved affordable housing agency to meet the ten-percent requirement as long as the lot(s) conveyed can accommodate an equal or greater number of units to ten percent of the overall development.

3. A developer may also pay a fee-in-lieu of development or conveyance of a lot of equal value to ten percent of the overall estimated construction cost of the built-out master plan to the Town of Black Mountain for the purpose of creating new and affordable housing opportunities.

D. *Streets, alleys and pathways:*

1. Public streets shall provide access to all lots. Designs shall permit comfortable use of the street by motorists, pedestrians and bicyclists. Pavement widths, design speeds, and number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the overall town street network. All roads shall be in compliance with the requirements as indicated in the Town of Black Mountain Standards and Detail Manual.

2. Streets and alleys shall, wherever practical, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de-sac and dead-end streets are discouraged and should only occur where absolutely necessary due to natural conditions.

3. No block face should have a length greater than 500 feet without dedicated alley or pathway providing through access.

4. To prevent the build-up of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided.

5. A continuous network of rear alleys is recommended for all lots in a TND.

6. Utilities shall be underground and shall run along alleys wherever possible.

7. Streets shall be organized according to a hierarchy based on function, size, capacity and design speed. Streets and rights-of-ways are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted master plan and each street type shall be separately detailed in the master plan.

8. Every street, except alleys, shall have a sidewalk on at least one side that is at least five feet wide. In shop front areas, sidewalks shall be at least ten feet wide.

E. *Parking:*

1. On-street parking should be provided on all streets. Occasional on-street parking can be accommodated without additional pavement width. For streets which serve workplace and storefront buildings, on-street parking is required and should be marked as such. On-street parking should be parallel to street unless the street lends itself to other parking layouts.

2. Parking lots shall generally be located at the rear or at the side of buildings and shall be screened from public rights-of-way and adjoining properties by land forms or evergreen vegetation so as to provide a barrier that will be at least three feet high and provide a 75 percent visual barrier within two years.

3. To the extent practicable, adjacent parking lots shall be interconnected.
4. Small and strategically placed parking areas are recommended.
5. Parking areas shall be paved as required in chapter 10 and all parking areas and traffic lanes shall be clearly marked.
6. The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
7. Off-street parking and loading requirements as outlined in the town's parking regulations may be used as guidance.
8. The developer shall demonstrate the provision of adequate parking and off-street loading areas for different areas of the development, based on the uses allowed and the density of development.
9. In addition to landscaping provided for screening above, trees should be planted around the perimeter and interior of parking lots to provide shade.

F. *Landscaping:*

1. Trees shall be planted within rights-of-way parallel to the street along all streets except alleys.
2. Tree spacing shall be determined by species type. Large maturing trees shall be planted a minimum of 40 feet and a maximum of 50 feet on center. Small and medium maturing trees shall be planted a minimum of ten feet and a maximum of 30 feet on center.
3. Large maturing trees shall generally be planted along residential streets and along the street frontages and perimeter areas of parks, squares, greenbelts and civic structures.
4. Small maturing trees shall generally be planted along non-residential streets, interior portions of parks, squares, greenbelts and civic lots. Storefronts shall not be obstructed by the planting pattern.
5. The natural features of the landscape shall be incorporated into the landscaping plan.
6. All plantings shall be with native or appropriate species (refer to list in appendix).

G. *Requirements concerning sidewalks and greenways:*

1. Sidewalks or greenway easements shall be provided in locations shown on the adopted comprehensive pedestrian master plan or shall connect to pedestrian facilities shown on the comprehensive pedestrian master plan. A fee-in-lieu of construction or dedication of easement may be provided to the town at an equivalent cost to construction upon approval of the town planning board.
2. Existing sidewalks at the time of development or re-development must be improved, repaired, or replaced as necessary in order to be compliant with town and ADA regulations as part of new projects.

4.7.12 ICD institutional campus development (master planned).

4.7.12.1 Purpose and Intent. This district is intended to allow for the continued and future use, expansion, and new development of academic, religious, government, and similar type uses where such campus or facilities qualify for location. The purpose of this district is to maintain the overall design integrity of the campus or facility setting while minimizing any adverse impacts on the neighboring areas.

4.7.12.2 Uses.

A. *Permitted uses.* The following uses include all accompanying facilities and accessory uses associated with their development that do not significantly impact the existing infrastructure (i.e., street capacity, water and sewer capacity, police or fire protection, or other service related town functions as described in the master plan).

1. Academic institutions. This will include, but is not limited to, primary, secondary, college, or specialized education organizations including technical schools.
2. Art galleries and museums.
3. Assembly facilities, including totally enclosed meeting rooms, chapels, sanctuaries, and auditoriums, but not including sports stadiums or coliseums. Facilities are not to exceed size required to seat two times the student or institutional enrollment.
4. Campus services. These may include a bookstore or retail store generally intended for, but not limited to the sale of school or institution related books and supplies; CD's, videos, gifts, greeting cards, flowers, candy, packaged snacks, soft drinks, toys, items with school logos, shirts, jackets, caps, sporting equipment, and small electronic equipment (i.e., clocks, radios, and stereos). Other such uses under this general definition could include a cafeteria, coffee shop, snack bar, laundry, etc., as long as they are located in such a manner and sign is such as to emphasize that they are for the prime benefit of users and employees and not the general public, although they may be open to the public. Such facility shall be limited to 500 square feet or no more than five percent of the total campus or institutional building area, which ever is greater. Note: Any facility listed which will be over 500 square feet shall become a special use.
5. Classrooms, laboratories, observatories, and other associated facilities.
6. Conference facilities. A facility developed for use in conjunction with other support facilities including but not limited to, bookstores, cafes or other allowed uses.
7. Golf courses or driving ranges. These shall be developed primarily for internal use by school or institutional membership.
8. Government facilities. Areas, buildings, and other support services required for use by federal, state, and local governments. (NOTE: Federal and state facilities will dictate their own use, and therefore, compliance with these regulations would be voluntary.)
9. Libraries.
10. Parks. This shall include, but is not limited to, non-enclosed athletic fields and associated seating.
11. Recreational facilities. This shall include a health club or spa facilities. Such facilities could include, but would not be limited to, organizations or associations such as the YMCA or YWCA.
12. Religious institutions and places of worship. These shall include facilities built for religious or academic study as well as other associated religious activities.
13. Residential: For use by user or staff population only.
    - Dormitories.
    - Duplexes, triplexes, quadraplexes.
    - Single-family residences.
    - Single-family residences with an accessory apartment.
14. Teller machines.

15. Wellness facilities. Facilities including, but not limited to, areas, buildings, and support facilities used for limited immediate care (infirmaries), long term residential care, or long term nursing care facilities. This may include a health care provider's office serving campus users only.

B. *Special uses.*

1. Campus services. As described under permitted uses, but over 500 square feet in area.
2. Enclosed gymnasiums. Such facilities shall be limited to enclosed buildings because of concerns for lights and noise.
3. Parking decks.
4. Recreational facilities. Those facilities not otherwise listed, such as swimming pools, playgrounds, bowling alleys, miniature golf, tennis courts, recreation center, etc. All uses shall be of a scale suitable for the internal needs of the institution or school and its population only.
5. Residential. Multi-family housing for user and staff use only with no more than four units per building.
6. Stadiums, coliseums, amphitheaters. Architectural plans shall show lighting, seating, and acoustics. Such facilities shall accommodate no more than twice the enrollment of the institution or school.
7. Temporary housing. This will include guest houses and conference centers when owned or operated by the primary institution for the convenience of visitors.

4.7.12.3 General requirements.

A. Minimum institutional development size: Two acres

B. Minimum institutional development width: 200 feet

C. Maximum density allowed for multiple-family dwellings: Ten units per acre

D. For calculating units per acre, lines shall be drawn and shown on a site plan indicating the acreage used for the housing development, including residential buildings, accessory buildings, yards, drives, parking, playgrounds, picnic and park areas designated for the residents, and other adjacent open space for the use only of the residents and their guests.

Minimum Building Separation by type (in feet):

1	2	3	4	5	
40	40	40	40	40	1
-	30	30	40	40	2
-	-	30	40	40	3
-	-	-	40	40	4
-	-	-	-	40	5

1. Non-residential primary use building
2. Single-family
3. Duplex
4. Dormitory
5. Multifamily (C.5. above)

E. Minimum required depth of front, side, and rear yard shall depend on the type of building but in no case shall there be less than a 30-foot separation.

F. In order to develop within this district, the following minimum criteria must be met:

1. A master plan shall be required (the master plan process is out lined in part E).
2. The total campus or facility land area will be two or more contiguous acres whether in one parcel or not.
3. The land area of an existing campus may be expanded by the addition of contiguous property, and/or properties having at least one boundary within 100 feet of the original core campus property.

G. Buffering. All campus or institutional uses shall be screened from adjacent residential, vacant, or commercial properties within 100 feet, so as to shield these properties from lights and noise, by the use of landscaping, natural vegetation, landscaped berm, topography, fence, or wall. The only such uses allowed within this 100-foot buffer area are:

1. Single-family dwellings.
2. Single-family dwellings with accessory apartments.
3. Duplex, triplexes and quadraplexes (two-, three-, and four-family) dwellings.
4. Parks (except spectator seating, which shall not encroach into the 100-foot buffer).

Trash containers, outdoor storage areas, loading areas, facility vehicle yards, and similar equipment yards shall be required to be screened from other interior uses as provided by landscaping, natural vegetation, landscaped berm, topography, fence or wall. Such buffering shall be a minimum of six feet in height and completely opaque. Vegetative buffering, if used in part or whole as the buffering of choice, shall be at least four feet at time of planting and grow to the required six-foot height within a three-year period. All plantings shall be maintained in a manner that will provide an opaque buffer.

H. Existing structures. When a property is rezoned to institutional campus development (ICD), existing structures on the property shall not be subject to the buffering or sign requirements of this chapter. Expansion of or changes to existing structures shall conform to all provisions of the ICD, except where impractical due to safety considerations or the Americans with Disabilities Act. When an existing structure is located within a buffer area, any changes to the structure shall be made so as to minimize the impact on the side(s) of the structure nearest to the property line.

I. Parking. All parking required by the uses in this district shall be provided on-site and in sufficient number not to require on-street parking off-campus, adjacent to campus, or encroachment on adjacent property. Parking shall be classified in the following manner:

1. Minimum required parking. Land reserved to meet parking demands for an institution, school, or other facility operations on a regular basis (daily operations, etc.). Minimum requirements shall be one space for each three students and three-quarters (0.75) space for each employee. These areas shall be shown on the master plan and may be paved or not at the option of the institution, school, or other facility for which such parking is being developed. These areas shall be shown with the type of surface treatment to be used on such land (gravel, brick dust, paved, etc.) which is subject to approval by the town staff.
2. Maximum required parking. Land reserved to meet parking demands for an institution, school, or other facility operations on a non-regular basis. These areas shall be shown on the master plan as areas which will be used to meet these requirements for parking (example: graduations, ball games). These maximum requirements are as follows: one space for each two students, and one space for each full time employee. These areas shall be noted on the master plan but may remain in a natural or undisturbed state.

J. Rooftop equipment. All rooftop equipment shall be enclosed in building materials that match the structure or are visually compatible with the structure.

K. Street design standard. All campuses or institutions shall have two points of connection to a town maintained street. If the street accessing the campus or institution shall be private, the street shall meet the requirements as indicated in the Town of Black Mountain Standards and Details Manual. However, such streets may, at the discretion of the planning staff in consultation with public works staff, be allowed to remain unpaved with use of an approved surface treatment (gravel or other).

L. Requirements concerning sidewalks and greenways.

1. Sidewalks or greenway easements shall be provided in locations shown on the adopted comprehensive pedestrian master plan. A fee-in-lieu of construction or dedication of easement may be provided to the town at an equivalent cost to construction upon approval of the town council.

2. Existing sidewalks at the time of development or re-development must be improved, repaired, or replaced as necessary in order to be compliant with town and ADA regulations as part of new projects.

4.7.12.4 Plan review procedure and required steps.

A. Meeting with planning, and development staff. Developer shall be required to meet with planning, and development staff for technical review prior to submitting a concept plan of the proposed development. The purpose of this meeting will be to acquaint the developer with the entire planning and developmental process for an ICD development.

B. Submittal of concept plan. A concept plan outlining the general elements of the overall development, including, but not limited to, building footprints, street layout (with roadway widths), natural areas, floodway areas, floodplain areas, and proposed recreation areas.

C. Submittal of master plan. The master plan shall be submitted no less than 30 days after the submittal of the concept plan. This time frame shall also be at least 30 days before the next regularly scheduled planning board meeting. The application for rezoning and rezoning fee should be submitted at this time. Such a plan shall be developed by a professional architect or civil engineer licensed to practice in the State of North Carolina. The applicant shall submit 12 complete copies of the master plan. To ensure clarity of the master plan presentation, utilities, landscaping, topography, and other specific categories of information may be required to be presented on separate layers, if, and as determined necessary, by the town staff. The master plan may be submitted and approved in separate phases in order to facilitate the long term development of the overall campus.

D. Planning board considers rezoning request and the master plan. The planning board shall consider rezoning request and the master plan for the institutional campus development district at the next regularly scheduled planning board or a special called meeting. A recommendation is made by the planning board to the town council.

E. Rezoning request and master plan review by town council. Recommendation for rezoning is submitted to town council and, if approved, the town council can then review the master plan.

F. Before approving a master plan and subsequent rezoning, the town council shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

G. Changes to the master plan. If the project represents a substantial change from the approved master plan, a new master plan must be submitted for planning board and the town council approval. A "substantial change" means a change that, in the opinion of the planning, and development staff, substantially affects existing traffic circulation, drainage, relationship of buildings to each other, landscaping, buffering, or outdoor lighting; or significantly impacts existing infrastructure or town services (i.e., street capacity, water and sewer capacity, police or fire protection, or other service related town functions) or any change that may result in impact on neighboring properties and residents. Such changes shall include, but are not limited to:

1. Addition or relocation of a building;
2. Addition or relocation of a parking lot for over ten vehicles;
3. Addition or relocation of parking or outdoor storage for service vehicles or equipment;
4. Addition or relocation of any other major development (i.e., ball fields, tennis courts, golf courses, amphitheaters, or any other facility to be used by numerous people at one time);
5. Relocation of a public street or private street connecting with the public street system.

Any changes to areas such as small picnic areas, playgrounds, walking trails, gardens, patios, terraces, courtyards, walkways, and parking areas for ten or fewer vehicles, which do not constitute a "substantial change" may be approved by the planning director or his/her designee.

H. The town council may deny the master plan, approve the master plan, or approve the master plan with conditions. The conditions upon the installation and operation of the proposed use(s) shall address the accumulated potential impact of the proposed use, including lighting, glare, noise, etc. in order that the use shall:

1. Not interfere with the use of the other properties or alter the existing character of the immediate vicinity;
2. Provide potential pedestrian or vehicular traffic that could be generated by the use(s) with adequate and safe connections to adjoining streets and pedestrian paths; and
3. Provide adequate parking and access controls to the benefit of the property itself and the adjoining properties.

4.7.12.5 Supplementary district regulations.

A. All permitted uses and special uses in this district are subject to approval of installation and materials by the public works director as designated, of curbs, gutters, storm drainage structures, sidewalks, entrances and exits, street paving, water and sewer facilities, and garbage collection procedures.

B. Awning and canopy signs, marquee and time and temperature signs are not permitted.

C. Banners, flags and pennants may only be used temporarily for special events and with the approval of the town zoning administrator. A plan showing diagrams of each type of banner, flag, or pennant and their method of installation must be submitted to the planning department for approval at least 30 days prior to the special event making use of these banners, flags, or pennants. The total amount of display time during which such banner, flag, or pennant shall be allowed to be used shall be a total of 30 days. The installation cannot be initiated until appropriate approval is received and not more than one week

prior to the event. Banners, flags, or pennants must not obstruct any fire escape, window, or door, or be placed in such a manner so as to interfere with any openings required for ventilation, nor offer hindrance to fire department equipment or personnel. Banners, flags, or pennants may be placed in or along the right-of-way of public streets immediately adjacent to the campus, providing a letter of permission from the proper utility company and/or property owner, holding the town harmless, is submitted if the banner, flag, or pennant is to be attached to any utility pole or to any tree or other object located on private property. Nothing in these requirements shall be construed to imply any restriction or prohibition on the appropriate display of any official flag of the United States, the State of North Carolina or any other government entity.

1. Manner of installation must be based on the established safety standards.
2. The banners, etc., must be made of fire-retardant material or treated to be fire retardant.
3. Maximum. The size of any banner, flag, etc. shall be 32 square feet.
4. Minimum. For safety reasons, a required seven-foot clearance above the sidewalk, if overhanging any sidewalk.
5. Minimum. For safety reasons, a required ten-foot clearance above the sidewalk, if above any street, driveway, alley, or any other vehicular travel way. More clearance may be required if the street involved warrants it.

D. Building identification (I. D.) signs may be building or ground-mounted. They must be a maximum of seven feet above the ground with a maximum surface area of 24 square feet. Only one sign per building is allowed for identification purposes.

E. Campus entrance signs shall be a maximum of seven feet above ground with a maximum surface area of 32 square feet. Only one sign per entrance to the campus at a public street, and at a major walkway considered to be the main entrance shall be allowed.

4.7.13 Uses.

4.7.13.1 Generally.

A. Uses, for purposes of this chapter, are divided into three types: principal uses, accessory uses, and temporary uses.

B. Uses, whether principal or accessory, are permitted by right, permitted with additional requirements, permitted upon issuance of a special use permit, or prohibited in each zoning district as listed in the permitted use table found in Section 4.6.15. Uses in the table are grouped into categories based on common function, product or physical characteristics. Use categories provide a systematic basis for assigning principal uses to appropriate zoning districts.

C. Special use permits are required for certain uses to ensure the goals of the comprehensive plan or other adopted plans are considered and to minimize negative impacts on neighboring properties. Special use permits are issued by the board of adjustment which shall hear and consider requests in accordance with guidelines set forth in Chapter 7 of this code.

4.7.13.2 Uses not specifically listed. A use that is defined in Chapter 1 of this Land Use Code, but not listed in the permitted uses table, is prohibited. A proposed use that is not defined in Chapter 1 and not listed in the permitted uses table shall be allowed or prohibited in the same manner as that use appearing in the permitted uses table which is most similar to the proposed use based upon the type and amount of activity, the likely impact on surrounding property, and the conditions of the site upon which the use will take place, as determined by the zoning administrator. The zoning permit issued for the proposed use shall state the

proposed use, the next most similar use as determined by the zoning administrator, and the reasons for so categorizing the proposed use.

4.7.13.3 Temporary uses.

A. *Purpose.* This section is intended to permit certain temporary uses of property while ensuring public safety, health and welfare.

B. *Requirements. for storage units or "PODS".*

This section applies to temporary, self-contained storage units, not including trailers for office use or temporary shelter, which are intended to be picked up and moved to various locations on demand.

The maximum time a temporary storage until shall be placed on a parcel is 120 days.

PODS shall be placed so as not to interfere with traffic or as to create a traffic hazard.

C. *Requirements for outdoor religious meetings.*

1. Religious meetings in a tent or other temporary structure shall not exceed a period of 60 days, unless approved by the zoning administrator related to on-going construction.

D. *Requirements for open lot sales.*

1. Temporary open lot retail sales shall be permitted in all industrial or commercial districts only.
2. Such use shall not exceed a 60-day period.

Blank box = not permitted
P = permitted by right
A = additional requirements (see Chapter 5)
S = special use permit required (see Chapter 7)

4.7.14 Table of uses by zoning district. Amended 9-9-2024, 1-13-2025

Table of Uses for Zoning Districts

Category	Uses	CR-1	SR-2	TR-4	UR-8	NMU-8	OI-6	CBD	HB-8	LI-8	HI-0
Special Uses	Conservation Subdivision	S	S	S	S	S	S	S			
Special Uses	Cottage Housing Development (CHD)	S	S	S	S	S	S	S	S		
Special Uses	Industrial Park Development								S	S	S
Special Uses	Planned Unit Development (PUD) - Commercial					S	S	S	S	S	S
Special Uses	Planned Unit Development (PUD) - Residential	S	S	S	S	S	S	S	S	S	
Residential	Emergency Housing	A	A	A	A	A	A	A	A	A	
Residential	Manufactured Home Parks			S	S				S	S	
Residential	Manufactured Homes on individual lots	A	A	A	A						
Residential	Multi-family residential all levels	S	S	S	S	S	S		S	S	
Residential	Mixed-used residential second floor and above and below street level							P			
Residential	Secondary Dwellings	A	A	A	A	A					
Residential	Shared housing/Community living facilities				P	P	P		P	P	P
Residential	Single-Family Residences	P	P	P	P	P	P		P		
Residential	Two-family Residences (duplex)	P	P	P	P	P	P		P		
Public/Institutional	Government facilities	P	P	P	P	P	P	P	P	P	P
Public/Institutional	Group home					P	P		P	P	P
Public/Institutional	Hospitals								P	P	P
Public/Institutional	Meeting halls for civic, social, and fraternal uses							P	P	P	P
Public/Institutional	Places of worship	P	P	P	P	P	P	P	P	P	P
Public/Institutional	Boarding House	A	A	A	A	A	A	A			
Public/Institutional	Conference Centers					P		P	P	P	
Public/Institutional	Cultural, Community Facilities							P	P	P	P
Public/Institutional	Educational facilities						P		P	P	P
Public/Institutional	Family Care Homes	A	A	A	A	A	A	A	A	A	

Public/Institutional	Public utilities	P	P	P	P	P	P	P	P	P	P
Other	Accessory Structures	P	P	P	P	P	P	P	P	P	P
Other	Agriculture	A	A	A	A	A	A		A		
Other	Automobile parking (principal use)										P
Other	Campgrounds						A		A	A	A
Other	Camps, summer	P	P	P	P		P				
Other	Communications towers								S	S	S
Other	Laboratories and research facilities									P	P
Other	Outdoor Theater									P	P
Other	RV, camper hook-up						A				
Industrial	Breweries/Distilleries/Wineries/ Cideries						P	P	P	P	P
Industrial	Chemical treatment									P	P
Industrial	Crematories										P
Industrial	Distribution									P	P
Industrial	Freight handling facilities								P	P	P
Industrial	Junkyards and salvage yards										S
Industrial	Manufacturing										P
Industrial	Manufacturing, light (indoor)								P	P	P
Industrial	Recycling sorting, processing, or storage									P	P
Industrial	Warehousing								P	P	P
Industrial	Wood and Yard Waste Facility										P
Commercial	Adult Establishments								S		
Commercial	Agriculture	A	A	A	A	A	A		A		
Commercial	Amusements and entertainment uses								P	P	P
Commercial	Animal services							P	P	P	P
Commercial	Art studio and galleries					P	P	P	P	P	P
Commercial	Automotive sales, rental and service								P	P	P
Commercial	Bank and financial services							P	P	P	P
Commercial	Bar						P	P	P	P	P
Commercial	Bed and Breakfast Homes	P	P	P	P	P	P	P	P		

Commercial	Bed and Breakfast Inns	A	A	A	A	A	A	A	A		
Commercial	Building material sales								P	P	P
Commercial	Business services							P	P	P	P
Commercial	Construction or contractor services									P	P
Commercial	Convenience Store					P		P	P	P	P
Commercial	Day care centers				A	A	A	A	A	A	A
Commercial	Farm supply stores								P	P	P
Commercial	Funeral homes								P	P	P
Commercial	Garden Markets	A	A	A	A	A	A	A	A		
Commercial	Health and fitness facilities					P	P	P	P	P	P
Commercial	Heavy equipment sales, rental and service								P	P	P
Commercial	Heritage crafts							P	P	P	P
Commercial	Home Occupations See Section 5.6 of Chapter 5	P~~A~~	P~~A~~	P~~A~~	P~~A~~		P~~A~~	P~~A~~	P~~A~~		
Commercial	Hotels and motels							P	P	P	P
Commercial	Industrial cleaning services							P	P	P	P
Commercial	Instruction services and studios								P	P	P
Commercial	Laundromat					P	P		P	P	P
Commercial	Laundry and dry cleaning							P	P	P	P
Commercial	Lumber yards										P
Commercial	Manufactured home sales and service								P		
Commercial	Medical offices and clinics					P	P	P	P	P	P
Commercial	Micro-breweries/distilleries/wineries/cideries							P	P	P	P
Commercial	Mini-storage									P	P
Commercial	Mini-storage or self-storage								P	P	P
Commercial	Mixed use buildings							P	P	P	P
Commercial	Mobile food vendors					P	P	P	P	P	P
Commercial	Mobile food vendor courts					P	P	P	P	P	P
Commercial	Mobile retail vendors					P		P	P	P	P
Commercial	Neighborhood fueling facility					A	A				
Commercial	Professional offices and services					P	P	P	P	P	P

Commercial	Restaurant (sit down)					P			P	P	P
Commercial	Restaurant brew pub/tavern						P	P	P	P	P
Commercial	Restaurants and taverns (walk-up, drive-thru, sit down)						P	P	P	P	P
Commercial	Retail							P	P	P	P
Commercial	Retail (Up to 2,500 sf)						P		P	P	P
Commercial	Taxi and Transportation Services					P	P	P	P	P	P
Commercial	Warehousing (accessory to retail)							P	P	P	P
Commercial	Wholesale								P	P	P
Commercial	Wholesale and retail bakery							P	P	P	P
		P = Permitted by Right					C = ~~Special Use~~ XXXXXXXX				
** See Land Use Code Section 1.2.3 for definitions of uses		A = Additional Requirements					S = Special Use				

(Ord. No. O-21-20 , 1-10-2022; Ord. No. O-22-07 , 9-12-2022; Ord. No. O-24-14, 9-9-2024; Ord No. O-25-01; 1-13-2025)

4.7.15 Dimensional requirements by zoning district.

Dimensional Requirements by Zoning District

Zoning District*	Use	Density and Lot Size			Minimum Yard Requirements			Max. Height
		Min. Lot Size/ Max. Density	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
CR-1	All Uses	1 acre, 1 DUA	80, 15 at street	100	30, 25 steep hillside	10	30**	35
SR-2	All Uses	½ acre, 2 DUA	60, 15 at street	100	30, 25 steep hillside	10	30	35
TR-4	All Uses	¼ acre, 4 DUA	40, 15 at street	80	20, 15 steep hillside	10	15	35
UR-8	Major Subdivision	⅛ acre, 8 DUA	15	None	20, 15 steep hillside	10	15	35
	Other Residential	5,000 sq. ft.	15	None	20, 15 steep hillside	10	15	35
	Non-Residential	⅛ acre	40, 15 at street	None	20, 15 steep hillside	10	15	35
OI-6	Residential	⅙ acre, 6 DUA	60	100	30	10	20	35
	Non-Residential	⅛ acre	100	100	40	30	30, 40 abutting residential district	35
NMU-8	Residential	⅛ acre, 8 DUA	50	100	25	10	10	35
	Non-Residential	⅛ acre	75	100	25	20	10, 20 abutting residential district	35
CBD	All Uses	None	None	None	12 from curb	none, comply with fire and building code	none, comply with fire and building code	40
HB-8	Residential	⅛ acre, 8 DUA	50 ft.	None	15	10	30	40
	Non-Residential	None	50	None	15	10, 20 abutting residential district	20, 30 abutting residential district	40
LI-8	Residential	⅛ acre, 8 DUA	50 ft.	None	15	10	30	55
	Non-Residential	None	None	None	0 on private street, 30 on public street, 50 across from residential district	10, 20 abutting residential district	20, 30 abutting residential district	55

HI-0	All Uses	None	None	None	15	10, 20 abutting residential district	20, 30 abutting residential district	48
*See Land Use Code Section 5 for requirements related to accessory structures and secondary dwellings								

4.7.16 Institutional Campus District Conditional Zoning for Montreat College. *Adopted 5-13-2024*

Institutional Campus District Conditional Zoning for Montreat College property located at 191 Vance Ave., PIN #0609-93-9480.00000, established with the following agreed upon conditions between Montreat College and the Town of Black Mountain.

CAMPUS MASTER PLAN NOTES AND CONDITIONS
Plan Notes

A. To assist Montreat College's ("College") nationally recognized cybersecurity training program, the North Carolina General Assembly appropriated $30 million for the design and construction of a Cybersecurity Facility on the College's campus. As a consequence of the General Assembly's appropriation, the College engaged in an extensive master planning process to provide guidance as to where on its Black Mountain Campus ("Campus") the Cybersecurity Facility would be best located, along with guidance to establish and maintain overall design integrity on the Campus while maximizing positive impacts on neighboring areas and minimizing possible adverse impacts.

B. In Section 1.2.3 of the Land Use Code of the Town of Black Mountain ("Town"), the Town defines a master plan as "a comprehensive, long-range plan guiding the development of a tract of land or subdivision." The hereinafter defined Master Plan satisfies the Town's definition of master plan as a long-range plan guiding development of the Campus. The Master Plan depicts uses and improvements envisioned by the College at the Campus arising from the College's master planning process which included an extensive review of its Montreat Campus and the Campus, both the advantages and opportunities of each campus as well as their specific constraints. The Town participated in the College's master planning process.

C. The guiding principles of the College's Master Plan are to (1) reinforce revenue sustainability, (2) protect and maintain facilities, (3) strengthen academic offerings, (4) enhance a vibrant student culture and (5) connection of the two campuses. It is foreseeable during the development of the Campus that many changes in higher education, technology, transportation, and skills needed for the 21 st century will occur.

D. These Plan Notes provide background and context relevant to understanding the Master Plan design. The Plan Notes are not rezoning conditions. The rezoning conditions for the Campus are stated below.

Rezoning Conditions

1. The Master Plan dated and entitled "MONTREAT COLLEGE: BLACK MOUNTAIN CAMPUS, Montreat, NC" ("Master Plan") shows the Property on which the Campus will be developed and the Campus shall be developed and used in accordance with the Master Plan, including the conditions identified as Rezoning Conditions ("Rezoning Conditions") as part of the Conditional Rezoning Ordinance No. O-23-22 (text) and Z-O-23-23 (map). As required by Section 1.5.5B.3, the Master Plan provides a full list of the proposed uses consistent in character with the Institutional Campus District in effect on August 28, 2023 (the "ICD"). All uses described on the Master Plan shall be generally permitted and allowed on the Campus as a matter of right in the locations shown on the Master Plan. The Campus will be developed in phases and completion of one phase is not necessary for the beginning of any development and construction of another phase except the Cybersecurity Facility (identified as one of the

"Academic Buildings, number 1, on the Master Plan) shall be the building first constructed of the new buildings shown on the Master Plan. Phases and phase lines may be adjusted by the College as needed. Development of the Campus will be approved through Town land development approvals of subdivision plats or zoning site plans. The Campus may be subdivided, or lots recombined in compliance with the Town's Land Use Code in effect on August 28, 2023, but lots on the Campus shall be exempt from any internal separation or other dimensional standards when adjacent to existing lot lines within the Campus.

2. Except as shown on the Master Plan or identified in the Rezoning Conditions, the standards of ICD shall remain in effect unless one or more different standards are consented to by the College in writing signed by the College. Should any unambiguous and irreconcilable conflict between the Master Plan and ICD arise, the Master Plan shall control. Should any unambiguous and irreconcilable conflict between the Master Plan and the Rezoning Conditions arise, the Rezoning Conditions shall control.

3. Any proposed change to the Master Plan shall be governed by Section 4.7.12.4G of the ICD in effect on August 28, 2023, which is entitled, "Changes to the master plan". Section 4.7.12.4G shall be interpreted to mean that any change which (1) substantially affects existing traffic circulation, drainage, relationship of buildings to each other, landscaping, buffering or outdoor lighting or (2) significantly impacts existing infrastructure or town services (i.e., street capacity, water and sewer capacity, police and fire protection, or other service related town functions) or any change that may result in an adverse impact on neighboring properties and residents (collectively (1) and (2) above are "Substantial Change") requires the College to submit a new master plan to the Town for approval. However, notwithstanding Section 4.7.12.4G items 1-5, the following will not be considered a Substantial Change triggering an amendment to the Master Plan and conditional zoning: (A) any change of location of the buildings or relocation of a building, all of which are the buildings shown on the Master Plan of no more than 200 feet as depicted on the Master Plan; or (B) addition or relocation of accessory structures, parking lots or areas, addition or relocation of parking or outdoor storage for service vehicles or equipment, relocation of any major recreation development (i.e., ball fields, tennis courts,), relocation of a private street connecting with the public street system are minor modifications that may be approved by Town staff administratively. Notwithstanding the above and subject to existing conditions and structures, the layout of internal streets shown on the Master plan, and bicycle and pedestrian access, stormwater management and signage approved by the Town, no relocation shall violate or negatively impact the 100' Institutional Zoning Buffer or other buffer requirements identified in paragraph 16 below or the access standards in paragraph 4 below.

4. The College shall develop and maintain a principal and secondary access to and from the Campus as depicted on the Master Plan. As shown on the Master Plan, the primary access to the Campus will be from Blue Ridge Road. The Blue Ridge Road entrance will be traffic-ready and opened to College traffic prior to the issuance of a building permit for vertical construction of the Cybersecurity Facility, which building shall be the first one constructed of the new buildings shown on the Master Plan. For all construction-related work on the Campus, vehicles will always use Blue Ridge Road for construction traffic or construction vehicles and equipment. The College will provide in its construction contracts that contractors will only use the primary access private street from Blue Ridge Road for access to the Campus. Upon completion of the primary access road as noted above, the secondary access points from Vance Avenue and Terry Estates Drive (both being public streets) shown on the Master Plan will be limited to secondary access for official College vehicles (maintenance vehicles and student shuttles of no more than fifteen (15) passenger seats) driven by licensed and approved drivers for College purposes only, and emergency fire and police. All secondary access points will either be gated or have knockdown barricades that are installed within the buffer identified in Rezoning Condition sixteen (16) near the property line of the Campus prior to issuance of the building permit for vertical construction of the Cybersecurity Facility. Additionally, the College will install and maintain restrictive signage within the buffer identified in Rezoning Condition sixteen (16) near the property line of the Campus denoting the limits of vehicular use on Vance Avenue and Terry Estates Drive. Bicycle and pedestrian facilities shall be included at the time the residence halls are constructed and the facilities shall not be required to follow the path of new private streets.

5. In order to achieve the benefit of locating the primary access to the Campus as being from Blue Ridge Road, the Master Plan shows the primary private access street along the narrow western neck of the Campus where there is minimal separation between the existing active railroad corridor and the Swannanoa River. If necessary, the private access street may be located within the Town regulated stream buffer or stormwater management area. Generally, Campus private streets will be paved at a minimum width of twenty (20) feet. On-street parking is not contemplated within the Master Plan but if it is added, it will meet all Town requirements in effect on August 28, 2023. Notwithstanding, all streets, parking lots or other access ways on the Campus shall meet Fire Code requirements of State law in effect on August 28, 2023, and the Town Code of Ordinances in effect on August 28, 2023, unless agreed to in writing signed by the College. Access Point 9 from U.S. Highway 70 as shown on the Master Plan may be developed by the College in its sole discretion.

6. The location, size, and type of stormwater management systems depicted on the Master Plan are subject to review and approval as part of review of applications for permits as provided by Section 2.1.4 of the Town's Land Use Code in effect on August 28, 2023. Adjustments may be necessary to accommodate actual stormwater treatment requirements, natural site discharge points and private streets of the Campus; provided, however, the College shall comply with the Town's post-construction stormwater ordinance in effect on August 28, 2023.

7. Streams, wetlands, open spaces and trails and regional greenways are provided on the Master Plan based on preliminary information available to the College when it submitted the Master Plan to the Town. The actual location of streams, wetlands, the Tomahawk Branch Loop Trail, the existing pedestrian and nonmotorized bicycle greenway and other open spaces will be shown on applications prepared by the College for permits issued pursuant to Section 2.1.4. of the Town's Land Use Code in effect on August 28, 2023. The greenways depicted on the Master Plan shall be open to the public from the daylight hours of dawn to dusk once completed with appropriate security, such as gates and protective features, to protect the Campus during the hours after dusk and before dawn.

8. The intention is to preserve and renovate the Manor House, subject to renovation, maintenance, and operating costs, the availability of financial resources, and future ownership. The Manor House, originally known as "in the oaks" and also known as "In the Oaks," is a 24,400 square foot, 67 room English Tudor styled mansion built in the 1920s containing a large formal hall, large kitchen, gymnasium, guest bedrooms, meeting areas and a classroom. In addition to established prior uses , the Manor House may be used for all uses set forth in Section 4.7.12.2A. and all of the special uses set forth in Section 4.7.12.2B of the Town's Land Use Code in effect on August 28, 2023, as a matter of right except as parking decks, stadium or coliseum, which shall be special uses. Nothing herein shall waive or modify the College's right to any lawfully existing uses or nonconforming uses of the Manor House.

9. Open space may include passive and active features such as parks, pedestrian and bike trails, regional trails, amenitized stormwater facilities (internal or external to the facility), existing streams and buffer yards, landscape areas, greens, plazas, sidewalk areas where seating is available, greenhouses, orchards, community gardens, tree save areas, and similar areas, including without limitation the existing pedestrian and non-motorized bicycle greenway along the southern border of the Campus and the new Tomahawk Branch Loop Trail. Open space for the overall Campus is cumulative and will be calculated by the College and provided to the Town for each permit application submitted to the Town for review and approval under Section 2.1.4 of the Town's Land Use Code in effect on August 28, 2023.

10. Principal buildings should be placed to present a front or side facade to all public and private streets when feasible. All buildings adjacent to public or private streets shall face upon the street with an entrance and have architectural features such as, but not limited to, windows, banding, medallions, or design features or materials that will be provided to avoid a sterile, unarticulated blank treatment of such walls. Solid waste containers (at the cost of the College) shall be located to the rear or side of such buildings and appropriately screened from streets.

11. Building and other site elements will be located and arranged to promote pedestrian scale, enhance the streetscape realm, and provide walkability within the Campus for students, faculty, and staff. To this end, resident halls (maximum of 4) on the Campus shall not exceed four (4) stories at a maximum height of sixty-five (65) feet, and the gymnasium building and the two academic buildings, one of which is the Cybersecurity Facility shall not exceed fifty-five (55) feet maximum height. All other buildings depicted on the Master Plan shall not exceed the height regulations of the ICD. Height measurements are to be performed in accordance with Section 4.5.2 the Town's Land Use Code in effect on August 28, 2023, with any rooftop mechanical equipment to be screened from ground level view.

12. Signage, as allowed by the Town's Land Use Code in effect on August 28, 2023, may be provided.

13. All exterior wall and pole lighting in vehicular and loading areas will be semi cut-off or full cut-off type lighting fixtures pedestrian-scale, lower, decorative lighting and should be installed along sidewalks and at building entryways.

14. The primary vehicular access from Blue Ridge Road should be enhanced with elements such as ornamental landscaping, low-level decorative walls, monument-type signs, and decorative paving to emphasize site access locations.

15. The 2-acre parcel at the northwestern corner of the Campus adjacent to Blue Ridge Road and existing Light Industrial uses may be developed and used for any use which is accessory (customary, incidental and subordinate) to the College, or the any of the uses permitted in the ICD in effect on August 28, 2023, District. By way of illustration (and not limitation) this parcel may be developed and be used as a welcome center or other facility for the benefit of the College and convenient for students, parents of students, faculty, and other College employees The use will be customary, accessory and subordinate to the College or the Campus when it furthers the College's mission or enhances the live, work, learn, play function of the Campus. The use shall not be required to exclude members of the general public.

16. Subject to existing conditions and structures and the layout of internal private streets as shown on the Master Plan, where the Campus adjoins existing residential development, the buffer shown on the Master plan shall be maintained of a minimum of 100 feet and include screening by existing or enhanced landscaping, natural vegetation, landscaped berm, topography, fence or wall. Bicycle and pedestrian access, stormwater management, and signage, all as approved by the Town, may be located within the buffer.

17. Except as provided on the Master plan or these Rezoning Conditions, the College shall comply with all other applicable ordinances or regulations within the Town's Code of Ordinances, including Appendix A Land Use Code, that are in effect as of August 28, 2023, unless otherwise agreed to by the Town and College or as otherwise provided in N.C.G.S. § 160D-108(c) or (d). This includes, but is not limited to, the Town's storm water ordinance regulations, the Town's Flood Damage Prevention Ordinance and the Town's Fire Code.

18. Recognizing the Master Plan is a long-range plan guiding and controlling development of the Campus, the Town and College may in the future negotiate and agree on a development agreement in accordance with the requirements of the North Carolina General Statutes. In the event the Town approves a development agreement with the College, the College will have a vested right to complete the Campus for the period specified in the development agreement. Should the parties not enter into a development agreement, the Master Plan including the Rezoning Conditions is a site-specific vesting plan and multi-phase development of at least 25 acres under Section 1.9.1 of the Town's Land Use Code in effect on August 28, 2023. Pursuant to Section 1.9.1F, the Master Plan vests a right to complete the Campus pursuant to the Town's ordinances in effect on August 28, 2023 for no less than five (5) years from approval of the Master Plan by the Town or no less than seven (7) years from the date the site plan for the initial phase of the development is approved by the planning board, whichever is longer (the

"Vesting Period") and the College, if necessary, may seek extension of development permits or approvals as provided under Section 1.9.1H. Provided, however, nothing herein shall restrict or limit vesting protections afforded incomplete developments or nonconforming uses in N.C.G.S. §160D-108 or under common law. The vesting rights provided by the Town's Land Use Code in effect on August 28, 2023, are in addition to common law vesting, statutory vesting and permit choice statutes adopted by the North Carolina General Assembly, including without limitation Article 10 of Chapter 160D of the North Carolina General Statutes authorizing formation of development agreements. To the extent vesting rights provided by the Town's Land Use Code, in effect on August 28, 2023, are different than vesting and permit choice rights under North Carolina law, the law that provides the longer vesting right shall apply.

SECTION 4.8 OVERLAY DISTRICTS

4.8.1 Wellhead protection overlay.

4.8.1.1 Purpose and intent. The wellhead protection overlay district promotes the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Black Mountain; preserves and protects the public, municipal water supply for the Town of Black Mountain; conserves the natural resources of the town; and prevents temporary and permanent contamination of the environment.

4.8.1.2 Scope. The wellhead protection overlay district consists of aquifers or recharge areas which are delineated on a map entitled "Wellhead Protection Districts, Town of Black Mountain," dated 8-9-99, as the same may be amended from time to time. This map is hereby made a part of the town zoning regulations and is on file in the office of the zoning administrator.

4.8.1.3 District boundary disputes.

A. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the board of adjustment. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

B. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner for all or part of the cost of the investigation.

4.8.1.6 Use regulations.

A. *Permitted uses.* The permitted uses, bulk and yard requirements within the wellhead protection overlay shall be those of the underlying zoning district, except as modified in subsection B.

B. *Special use permit required.* The following uses and structures which pose known groundwater contamination threats are permitted only upon issuance of a special use permit pursuant to the requirements of section 7.12:

1. Use or production of hazardous substances in industrial, processing, manufacturing or commercial operations;

2. Any waste treatment or disposal activity requiring a permit under any of the following state regulations:

   a. 15A NCAC 1E, Oil Refining Facility Permits;

   b. 15A NCAC 2H.0100, Point Source Discharges to Surface Waters;

   c. 15A NCAC 2H.0202, Waste Not Discharged to Surface Waters, including waste lagoons, spray and infiltration systems, and the land application and subsurface disposal of wastes, but excluding sewer system extension lines.

   d. 15A NCAC 5B, Mining: Mineral Resources;

e. 15A NCAC 5D, Oil and Gas Conservation;

f. 15A NCAC 13A, Hazardous Waste Management Permits;

g. 15A NCAC 13B, Solid Waste Management Permits, primarily landfills;

3. Animal feed lots;

4. Automobile junkyards;

5. Battery recycling and reprocessing;

6. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within six feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the U.S. Geological Survey, except for excavations for building foundations, roads, or utility works;

7. Impervious surfaces covering more than 15 percent of the lot;

8. Industrial and commercial uses which discharge processed wastewater on-site;

9. Manufacturing and production of paving, roofing, and other construction materials, using asphalt- and petroleum-based coating and preserving materials;

10. Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and non-ferrous metals;

11. Retail gas stations and truck stops;

12. Septic tanks, unless used only for domestic waste and pumped out at least once every five years and are 1,200 gallons or less in size;

13. Storage of animal manure unless covered or contained in accordance with the specifications of the United States Natural Resources Conservation Service;

14. Storage or application of restricted use pesticides;

15. Wood-preserving operations using formulations of Chrome-Copper-Arsenate (CCC), penthachlorophenol (PENTA), creosote and related chemicals;

16. Underground storage tanks, unless equipped with secondary containment structures.

C. *Use list not exhaustive.* The uses prohibited pursuant to subsection B. represent commonly occurring uses that pose known risks of contamination to groundwater. If a proposed use is known to pose similar risks of groundwater contamination.

D. *Changing technology.* The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, that causes the uses as a class to be groundwater pollution risks. As the technology of identified uses classes changes to non-risk materials or methods, upon petition from such a use, and after conferring with expert geological and other opinion, it is the intention to delete uses from the prohibited list, or allow them conditionally, those which demonstrate convincingly that they no longer pose a pollution hazard.

E. *Limited exemptions.* The following activities or uses are exempt from the provisions of this section:

1. The transportation of any hazardous substance through a wellhead protection overlay district, provided the transporting vehicle is in transit;

2. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle;

3. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.

4. Office supplies that are used solely for the operation of on-site administrative offices, provided such supplies are prepackaged in a form ready for use.

5. Hazardous substances which are packaged for personal or household use and present in the same form and concentration as packaged for use by the general public. The aggregate inventory of such substances shall not exceed 100 gallons or 800 pounds at any time.

F. *Requirements for existing prohibited uses.* All uses and structures specifically prohibited in subsection 4.1.7.6.B. may continue beyond the effective date of this ordinance only if, within 90 days after the effective date of this ordinance, the mayor and town council approve an operating and monitoring plan for each prohibited use or structure.

4.8.1.7 Plan submission and approval.

A. *Site plan requirements.* The following materials or information shall be provided on the site plan when it is submitted to the zoning administrator for review:

1. The location of public water supply wells within 1,000 feet of the site.

2. The location of adjacent (within 200 feet of a property line) private drinking water supply wells.

3. A complete list of the types and volumes of all hazardous substances (including fuels) used, stored, processed, handled or disposed, other than those volumes and types associated with normal household use.

4. Description of types of wastes generated and method of disposal including: solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.

5. Provisions for management of stormwater runoff.

B. *Operating and monitoring plan requirements.* At a minimum, an operating and monitoring plan (or "plan") shall contain the following elements, for approval by the town council:

1. General information.

2. Name, title and address of owner of the land on which the prohibited use or structure is located.

3. Name, title and address of the operator, authorized agent or other responsible person if different from the owner of the land.

4. Name of the business.

5. Address of the prohibited use or structure.

6. Type of facility, operation or site.

7. Size of the prohibited use or structure, including, where applicable, lot acreage, square footage of any buildings, number of employees, etc.

8. Operating or performance standards.

9. The plan must specify under what standards the prohibited operation, facility or site will be operated or performed. These standards must ensure that all possible efforts are made to reduce the likelihood of contamination of the groundwater supply.

10. If any state or federally promulgated environmental protection standards exist for a particular site, industry, business, facility or operation, then the plan must specify what those standards are, and how they will be implemented.

11. If no state or federally promulgated standards exist, or in addition to such standards, the plan must indicate what the most current best management practices (BMP) are for that particular site, industry, business, facility or operation and how those best management practices will be implemented.
12. Monitoring provisions.
13. If state or federal laws, rules or regulations require groundwater monitoring by a particular site, industry, business, facility or operation then the plan must specify what those requirements are and how they will be implemented.
14. If no state or federal laws, rules or regulations require groundwater monitoring by a particular site, industry, business, facility, or operation, then the plan must specify by whom, by what method, where and how frequently the groundwater under the property will be monitored.
15. Reporting schedule.
16. The owner/operator of any prohibited use or structure shall submit a report to the zoning administrator annually summarizing the monitoring results for the year, including any contamination that may have occurred and the remedies that were undertaken to protect the groundwater.
17. No annual report is required for septic tanks or impervious surfaces located within wellhead protection overlay districts. These uses will be allowed to continue indefinitely, although no future expansion will be allowed, provided that the other requirements of this section are met.
18. Performance bond. The owner/operator of any prohibited use or structure is required to engage an accredited performance bondsman to ensure complete compliance with the terms of the approved operation, monitoring and amortization plan. The plan must specify the name and address of the bondsman, as well as the amount of the insurance obtained.
19. Other requirements. Additional requirements may be imposed if further protection of the town's groundwater supply to the public well system is warranted, including groundwater monitoring beyond the amortization period specified in the plan. Factors which shall be considered include but are not limited to the toxicity of the substance, the amount of the substance, proximity of the condition to the well, soil conditions, topography and other factors pointing to the degree of risk posed to the public water supply.

C. *Approval process for operating and monitoring plans.*

1. Plan submission. The owner or developer shall submit ten copies of the operating and monitoring plan to the public works director for consideration by the town council.
2. Plan review. The public works director shall review the operating and monitoring plan and prepare a recommendation for the town council, based on the plan's compliance to the regulations specified in this ordinance and the potential threat to the town's public water supply. The recommendation shall be made within 30 calendar days of the plan's submission date.
3. Before approving an operating and monitoring plan, the town council shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed area or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed area and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

4.8.2 Flood damage prevention overlay (flood insurance rate maps).

This overlay district is established to prevent hazards within the floodplain as designated on the flood insurance rate maps (FIRM) as the same may be amended from time to time, which are hereby adopted by reference and incorporated herein. Regulations for this district are found in chapter 2.3 of this LUC.

4.8.3 Historic district and historic district overlay.

4.8.3.1 Purpose and intent. The historical heritage of our town is one of our most valued and important assets. The preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the town. The purpose of establishing local historic districts and landmarks is to encourage the restoration, preservation, and rehabilitation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets. In addition, the preservation of the historic districts and landmarks provides for the education, pleasure and enrichment of the residents of Black Mountain and the state as a whole.

4.8.3.3 Designation of historic districts. All locally designated Historic Districts and Historic Landmarks shall be a part of the Historic Overlay District. The town council may adopt, amend, reject or repeal ordinances designating historic districts when adoption or amendment is pursuant to the following procedure:

A. An investigation and report describing the historical, architectural, or archaeological significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared; and

B. The North Carolina Department of Cultural Resources, acting through the state historic preservation officer or his or her designee, shall make an analysis of and recommendations concerning such report and description of proposed boundaries Failure of the department to submit its written analysis and recommendations to the town council within 30 calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the town of any responsibility for awaiting such analysis, and the town council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

C. Historic districts shall consist of areas, which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting, materials, feeling, and association. The area, buildings, structures, sites, or objects shall be significant elements of cultural, social, economic, political, or architectural history of the town or of the archaeological history or prehistory of the town. The preservation of such a district will provide for the education, pleasure and enhancement of the quality of life of all residents of the town.

D. The town council shall designate the boundaries of an historic district in accordance with the procedures set forth in the Town Code of Ordinances, amendments of the Black Mountain Zoning Ordinance and N.C.G.S. §§ 160D-601 and 160D-944.

E. Following the town council designation and approval an historic district, the area so designated shall be labeled "HD" on the official zoning map.

4.8.3.4 Certificates of appropriateness required.

A. No exterior portion of any building or structure in the historic district (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic preservation commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purpose and intent for which this district is established. A certificate of appropriateness shall be required whether or not a building or other permit is required.

B. Application for and consideration of certificates of appropriateness shall be made pursuant to the requirements of section 1.8 of this Land Use Code.

C. For purposes of the application for and issuance of a certificate of appropriateness, "exterior features" shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. Exterior features may also include historic signs, color and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.

D. Jurisdiction of the commission over interior spaces is limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner.

E. The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Black Mountain and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the Town of Black Mountain or public utility companies or for construction, alteration, moving or demolition within the historic district; provided, however, that no certificate of appropriateness shall be required for ordinary maintenance or repair, including the following:

1. Underground utilities, except where archaeological finds or sites are uncovered;
2. Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
3. Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;
4. Deletion or replacement of poles of standard material and height, not to exceed 37 feet;
5. Addition or deletion of fire hydrants;
6. Routine replacement of street signs;
7. Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;
8. Addition of equipment on existing lines or poles;
9. Replacement of existing overhead lines, poles or ground-mounted installation.

4.8.3.5 Land use, interior arrangement, maintenance, emergency repairs not considered.

A. Regulations governing the historic district overlay shall not be construed to prevent a property owner from making any lawful use of his or her property.

B. The ordinary maintenance or repair of any exterior architectural feature of a landmark, or in the historic district (HD) which does not involve a change in design, material, or outer appearance thereof, shall not be prevented by the requirements pertaining to the designated landmark or historic district.

C. Nothing in this article shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the commission or the ordinary repair of streets, sidewalks, pavement markings, street signs, or traffic signs.

D. The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the town building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the landmark, or the historic district.

4.8.4 Reserved.

4.8.5 Fire district overlay.

4.8.5.1 Statutory authorization and enactment. In accordance with the requirements of N.C.G.S. § 160D-1128(B), the Town of Black Mountain hereby establishes a primary fire district.

A. Primary fire district defined. The primary fire district shall be as defined within the legal description set forth herein below. In addition, a map of the affected property, based upon the aforementioned legal description, is available for inspection in the office of the Town Clerk in the Black Mountain Town Hall and in the Black Mountain Planning and Development Department.

B. For the purposes of this section, the primary fire district shall be described as follows. Primary fire district. Beginning at the intersection of the centerlines of East State Street and Richardson Boulevard; thence running southeasterly along the centerline of Richardson Boulevard to a point where it intersects with the centerline of Sutton Avenue; thence southwesterly along the centerline of Sutton Avenue to the intersection of the centerlines of Sutton Avenue and N.C. Highway 9; continuing southwesterly along the centerline of Sutton Avenue to where it becomes the centerline of South Dougherty Street; thence northwesterly along the centerline of South Dougherty Street to its intersection with the centerline of West State Street; thence northeasterly along the centerline of West State Street to its intersection with the centerline of Church Street; thence northwesterly along the centerline of Church Street to a point in the centerline of Church Street at the location where it would intersect with the extended southern boundary line of property being identified with Parcel ID# 061936020000000 and described in Deed Book 5703 at Page 1047 in the Office of the Register of Deeds for Buncombe County, thence northeasterly to the northeastern corner of said property; thence westerly with the northern boundary of said property and the southern boundary of property identified with Parcel ID# 061936039000000 and described in Deed Book 5665 at Page 1604 (a ½ undivided interest) and in Deed Book 5670 at Page 1426 (a ½ undivided interest) in the Office of the Register of Deeds for Buncombe County; thence northwesterly with the western boundaries boundary of said property and the property identified with Parcel ID# 061936033900000 described in Deed Book 5597 at Page 777 in the Officer of the Register of Deeds for Buncombe County to the northwest corner of the last identified property; thence northeasterly with the northern boundary of said property to the centerline of Montreat Road; thence southeasterly along the centerline of Montreat Road to a point where it intersects with the centerline

of East State Street; thence northeasterly along the centerline of East State Street to its intersection with the centerline of Richardson Boulevard, being the point and place of beginning.

4.8.5.2 Purpose and intent. This primary fire district overlay is established to provide standards for the construction, alteration, and repair of buildings and structures located within, erected within, or moved within or into the primary fire district from another location. The construction and maintenance requirements set forth herein are consistent with North Carolina General Statutes; the latest North Carolina Edition of the International Building Code, as currently enforced within the State of North Carolina and the Town of Black Mountain; and, professionally recognized practices designed to produce a reasonable level of life safety and property protection from fire hazards in premises that are located, or capable of being located, within close proximity to one another.

4.8.5.3 Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Additional required protection features. Fire suppression equipment that is installed in a structure that is designed to lessen the exposure to potential fire damage. Such equipment shall include, but shall not be limited to, automatic fire protection systems and automatic alarm systems, or other properly engineered and approved features that provide increased levels of protection equal to or exceeding automatic fire protection.

Heavy timber construction. A type of construction in which the exterior walls are made of noncombustible materials and the interior structural building elements are of solid or laminated wood. To be considered to be heavy timber construction, supporting wood columns and roof framing shall not be less than six inches in width and eight inches in depth while floor framing members shall not be less than six inches in width and ten inches in depth.

Increased fire hazard. An increase in the volume of combustible material contained in the erected, repaired, altered, or moved structure that is not otherwise offset by the installation of additional required protection features; or, changes in the building features that allow increased communication of fire from one building to another (such as increasing the number of openings in exterior walls).

Reasonable routine maintenance. Replacement of existing portions of the structure with like materials so as to avoid deterioration, or further deterioration, of the structure.

Repair or *alteration.* Repairs or alterations to a building that exceed reasonable routine maintenance; that exceed 50 percent of the current value of the building; or, that change the exterior finish, exterior configuration, number of openings in exterior walls, or the footprint of the building. This does not include emergency repairs needed to secure the building from water, storms, or unauthorized access. For the purposes of this definition the current value of the structure shall be interpreted to be the assessed tax value of the structure as listed by the Buncombe County Tax Office or, as determined by a certified appraisal, before the improvement is started. If the structure has been damaged and is being repaired, the value of the structure shall be interpreted to mean the value before the damage or destruction occurred.

Wood or *frame structure.* A type of construction whose primary structural elements are formed by a system of repetitive wood framing members. For the purposes of this ordinance wood or frame structures shall not include heavy timber, metal frame, or masonry construction where the exterior walls are composed of noncombustible materials that support the roof load. Noncombustible veneer facades attached to exterior walls are not considered to be noncombustible exterior walls.

4.8.5.4 Permit required. No activity regulated by the provisions of this section shall commence until such time as a permit is issued by the building inspector.

4.8.5.5 Primary fire district regulations.

A. *Enforcement of building and fire codes.* All buildings and structures erected, repaired, altered, or moved within or into the primary fire district shall comply with the provisions of the North Carolina edition of the most current International Building and Fire Code, as currently enforced within the State of North Carolina and duly adopted and enforced within the Town of Black Mountain.

B. *Wood or frame structures allowed.* In accordance with G.S. 160D-1128(C), no wood or frame building or structure may be erected, repaired or altered, or moved into or within the limits of the primary fire district except in accordance with the procedure set forth below.

1. The proposed construction activity will not contribute to an increased fire hazard.
2. Permit approval process. Upon receipt of the required application, the building inspector shall circulate a copy of all application materials to the fire marshal for review and comment.
3. Following receipt of written comments from the fire marshal, the building inspector shall approve or deny said application. If the application is approved, it shall be transmitted to the town council for review. If the building inspector denies the issuance of a permit, the reasons for such denial shall be set forth in writing, a copy of which shall be transmitted to the applicant.
4. If the town council approves the application, it shall be then forwarded to the office of the insurance commissioner for the State of North Carolina for review. If the town council denies the issuance of a permit, the council shall instruct the town clerk to prepare, for the signature of the mayor, an order specifying the reasons for the denial. A copy of the order of denial shall be forwarded to the applicant. Upon notification of denial, the applicant may appeal the decision of the town council in accordance with the regulations set forth below.
5. Once both the building inspector and the town council have approved the application locally, said application is forwarded to the North Carolina Commissioner of Insurance (or designee) for review.

C. *Appeals procedure.* Appeals from any adverse decision made on the part of either the building inspector or the town council with regard to the enforcement of the primary fire district regulations may be taken to the commissioner of insurance (or designee). Said appeal may be made by filing a written notice concurrently with the office of the commissioner of insurance for the State of North Carolina and with the Town of Black Mountain Building Inspector within a period of ten days following the issuance of any order, decision, or determination.

(Ord. No. O-23-16 , 9-29-2023)

4.8.6 Pedestrian master plan overlay.

4.8.6.1 Purpose and intent. The pedestrian master plan overlay district is established to: fulfill the comprehensive plan goal of making Black Mountain "one of the most walkable communities in the region;" implement the adopted pedestrian master plan; provide safe and convenient pedestrian and wheelchair access throughout town and in particular to connect residential areas with commercial and employment areas; promote inter-modal transportation and support transit; and maintain the small-town feel and traditional character of the town.

4.8.6.2 Establishment of the overlay. This overlay district is established with adoption and any subsequent updates of the town's pedestrian master plan map.

4.8.6.3 Regulations.

A. Sidewalks are required for all development projects which fall in the following categories:

1. Construction of new commercial, office, institutional, and mixed-use structures that abut existing or proposed public roadways;
2. Renovation or expansion of any existing commercial, office, or institutional structure that abuts a public roadway where the renovation or expansion results in an increase of more than 50 percent of the value of the structure;
3. All new residential major subdivisions of ten or more single-family homes;
4. All new multi-family residential subdivisions of ten units or more;
5. All new development pursuant to a special use permit;
6. All new streets, improved streets or extension of streets required by the town subdivision ordinances, or special use permit.
7. As a requirement of the district in which the project is located.

B. Wherever a property abuts a proposed greenway alignment, the development plan for that property must allocate right-of-way for future construction, or may utilize greenway construction to meet pedestrian access requirements or to offset fees required in lieu of sidewalk construction (see paragraph C. below). Allocated right-of-way for the purpose of greenways may be used to fulfill open space requirements for major subdivisions and special use permits (see also chapters 3, 5, and 7).

C. Notwithstanding the conditions of a special use permit, a developer may choose to request a waiver for construction of sidewalk and pay a fee in lieu of actual construction as long as the following conditions are met:

1. The applicable project area, including the street frontage, is not identified as a needed pedestrian linkage within the pedestrian plan or other adopted transportation or corridor plan, including but not limited to the transportation improvement program (TIP), or greenway master plan, or are granted approval for a waiver by the town council.
2. To grant a waiver for sidewalk construction, the town council must find that:
    a. Such facilities are not in harmony with surrounding uses; or
    b. That a sidewalk in that location is unfeasible due to special circumstances, including but not limited to impending, road widening or improvements, significant street trees, or severe roadside conditions or slope which would prohibit sidewalk construction.
3. The developer must provide a recorded easement, if necessary, for the future development of the sidewalk or greenway in accordance with the adopted master plan. The developer wherever practical shall grade for the future development of a sidewalk.
4. Fees shall be based on the construction cost for a five-foot concrete sidewalk surface for the linear footage of property adjacent to the public roadway.

D. All sidewalks shall be constructed in accordance with the standards of the Town of Black Mountain and shall be reviewed by the public works director.

4.8.6.4 Use of fees collected in lieu of construction. All fees collected by the town pursuant to these provisions shall be accounted for separately from other monies, and shall be expended only for the construction or rehabilitation of sidewalks or other pedestrian improvements in the same general area as the development is located as determined by the town council at the time of the request.

4.8.7 US70 corridor overlay.

4.8.7.1 Purpose and intent. US Highway 70 serves as the primary entrance, or "gateway," and thoroughfare through town. The US70 corridor overlay preserves and encourages the beautification of this corridor to promote economic development and investment along the US70 corridor; promote automobile, bicycle and pedestrian safety along the US70 corridor; implement selected recommendations from the US70 corridor study; promote inter-modal transportation and support transit; and maintain the small-town feel and traditional character of the town.

4.8.7.2 Establishment of the overlay. This overlay district is established over properties and uses immediately adjacent to the US70 corridor through the jurisdiction of Black Mountain, with the exception of the central business district and the industrial districts (HI-0 and LI-8). Unless explicitly stated otherwise within the regulations of the overlay, all other regulations of the underlying zoning district shall apply.

4.8.7.3 Regulations.

A. *Building orientation, form and setback in relation to US70.*

1. Buildings adjoining the US70 right-of-way shall be no more than 50 feet from the curb and gutter of US70 as a maximum setback unless part of a special use permit.
2. Buildings adjoining the US70 right-of-way shall be designed so that the building is oriented to the roadway. Buildings must have a minimum of one primary entrance opening directly toward the street and connect to the public sidewalk either directly or by a walkway or other facility such as an arcade, patio, or stairs and ramp that accommodates pedestrians and wheelchairs.
3. Doors, glazed openings or windows, and porches are considered openings on the facade of a building. All ground level exterior walls directly facing US70, intersections, and/or other public streets shall have a minimum of 50% openings the length of the wall.
4. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes longer than 100 feet on their facades that are visible from the US70 thoroughfare. Building wall offsets, such as changes in materials, use of projections or awnings, recesses, and changes in floor level, shall be used in order to add architectural interest and variety and relieve the visual effect of a single, long wall.
5. Changes to the roofline (such as a staggered parapet or other articulation on the roofline facing the street) shall be provided every 100 feet to meet this requirement and to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof. Structural signage of similar material to the building and attached to the building may be used to meet this requirement.
6. Unless as part of a special use permit, parking areas shall be in the side or rear of the primary structure on the lot to the greatest extent practicable. The exemption to this requirement is handicapped parking spaces or parking areas providing less than 20 spaces which may be located in the front buildings.
7. All site plans shall design landscaping along the front of the building or parking lot adjacent to the right- of-way and in accordance with the town's landscaping regulations.

B. *Access management and property ingress and egress.*

1. All sites shall be developed in accordance with "access management" principles. Access management is the implementation of design practices intended to address organized and controlled traffic movement to minimize traffic conflict, provide efficient traffic flow, and to provide a more pedestrian-friendly development pattern. Access management should address the location and design of public street and driveway connections to the primary roadway, as

well as promote site design that minimizes the total number of connections needed throughout the corridor.

2. In order to minimize traffic conflicts at intersections, property ingress/egress shall be a minimum of 100 feet from intersections of US70 and public roads. If the property frontage is situated in such a way or is not long enough to accommodate this requirement, then the driveway shall be as far from the intersection as possible.

3. Along US70, parcels may have a maximum of one curbcut for two-way traffic or two curbcuts for one-way traffic onto the US70 corridor. Curbcuts shall be a maximum of 25 feet for a two-way driveway, or 30 feet if driveway is to be used for truck traffic of more than two axels, or a maximum of 20 feet for one-way driveways.

One-way driveways shall be separated by a curbed median or planted area of minimum ten feet in width and include pavement markings with directional arrows to indicate traffic direction. Signage may be placed within this median as long as it does not interfere with the line of sight of motorists or the NCDOT right-of-way.

4. Adjacent properties with parking lots greater than 15 spaces shall be connected and share driveways and establish joint-access agreements. Joint parking can be utilized to meet minimum parking requirements of the town. Adjacent parking lots of greater than 15 spaces are required to have interior connections to allow traffic flow within parking areas.

5. Service entrances and alleys may be developed in addition to other driveways. Shared use and joint access to service entrances and alley ways is encouraged among multiple businesses and developments. Such alleys shall be located in the rear of buildings and should connect to side roads wherever possible.

6. Where possible, driveways on corner lots should utilize side streets to funnel traffic toward three and four-way intersections that may be governed by stoplights.

7. In addition to other pedestrian requirements provided in the pedestrian overlay, sidewalks are required along US70 the length of property frontage and must be a minimum of five feet in width with a minimum two-foot buffer between the sidewalk and the back of curb.

8. All curb-cuts and driveways shall include pedestrian markings of zebra stripes, textured asphalt stamping, or brick pavers or other material that visually designate the pedestrian thoroughfare and connects to the sidewalk.

C. *Loading and storage areas.*

1. All loading and storage areas shall be located to the side and/or rear of all principle structures, except single-family or duplex residential structures, fronting the highway corridor. For corner lots, the side of the lot facing the more major thoroughfare shall be considered the front yard for the purpose of this requirement.

2. All dumpsters shall be screened from any adjacent roadways and shall be located in the side or rear of buildings and comply with screening requirements (see section 4.4.6).

3. Mechanical equipment, utility meters, storage areas, trash enclosures, transformers, generators or other utility hardware attached to or on the building or ground shall be screened from the US70 roadway with materials similar to the structure, or be located so as not to be visible from public view from US70.

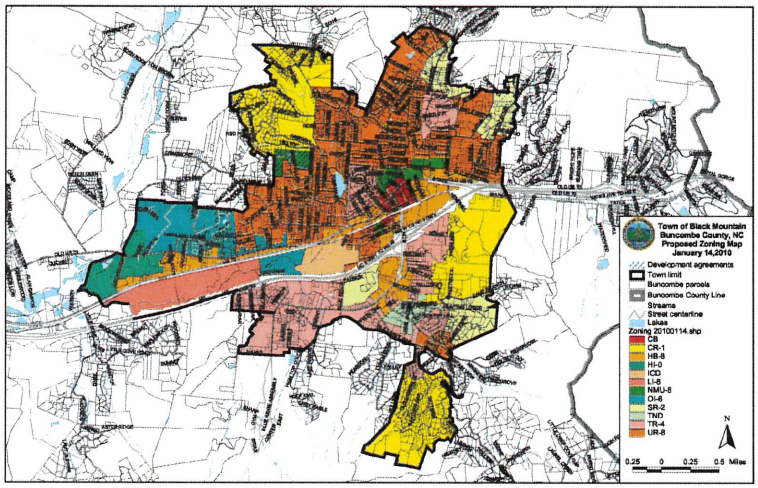
D. *Signage.*

1. All free-standing signage as allowed in the town's sign regulations, must be of monument style and incorporate some non-metal materials such as wood, brick or stone into the structure. Such signs

may be lit through the use of external or internal sources only in accordance with the town lighting regulations (see chapter 9) and shall not exceed 12 feet in height.

E. *Parking areas and requirement reduction incentives for tree preservation and bicycles.*

1. When parking lots abut the sidewalk adjacent to US70, a planted buffer area of average of six-feet-wide, and a minimum of three-feet-wide is required to separate the sidewalk from the parking lot. The buffer shall contain continuous landscaping of shrubbery and/or flower beds, or plantings. Where a parking lot abuts the sidewalk along US70 for a length of more than 200 linear feet, then a break in the landscaping and a pedestrian connection to the parking area is required.
2. Town parking requirements may be decreased according to one or more of the following criteria within the overlay district:
    a. Two to four parking spaces may be waived in exchange for the preservation of one established tree of 24 inches diameter or greater within a parking lot, up to 20 spaces in exchange for established trees per acre. The "Tree Protection Zone" is a minimum area equal to the area of a circle having a radius in feet equal to the tree diameter in inches (24-inch diameter of tree would require a 24-foot radius area). A tree protection zone must be incorporated into the site plan and preserved throughout construction. This area may serve more than one tree as long as the protection zone is adequately designated and maintained. These protected areas for larger trees can count toward the landscaping and parking lot island requirement of the town.
    b. A developer may choose the option of replacing one automobile space with four bicycle parking spaces, (or two spaces for eight bicycle parking spots, or three for 12) up to a maximum of 16 bicycle parking spaces in place of four automobile spaces.
    c. A developer may share parking through a joint-use agreement with another business or entity or group of businesses/entities. The number of spaces required for that business shall be determined by zoning administrator based on a negotiated joint-use agreement among businesses and the projected combined parking needs of the businesses involved.


Town of Black Mountain
Buncombe County, NC
Proposed Zoning Map
January 14,2010
Development agreements
Town limit
Buncombe parcels
Buncombe County Line
Streams
Street centerline
Lakes
Zoning 20100114.shp
CB
CR-1
HB-8
HI-8
ICD
LI-8
NMU-8
OI-6
SR-2
TND
TR-4
UR-8
N
0.25 0 0.25 0.5 Miles

CHAPTER 5. ADDITIONAL USE STANDARDS FOR SPECIFIED USES

SECTION 5.1 PURPOSE

5.1.1 Purpose.

The Town of Black Mountain finds that there are certain uses that require specific additional standards to ensure compatibility with other uses and conformance to the town's comprehensive plan or other adopted plans. This chapter specifies requirements that must be met by each use listed as a "use permitted with additional requirements" in chapter 4 of this land use code.

SECTION 5.2 AGRICULTURE AND ANIMALS

5.2.1 Agriculture and animals.

A. The regulations of the land use code may affect property for agricultural purposes only as provided for in this section. This section does not limit regulation under this part with respect to the use of a farm property for non-farm purposes.

B. Agricultural purposes include the production and activities as defined in these regulations and by North Carolina State Statutes as "bona fide farms" and related or incidental to the production of crops, fruits, honey, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market, excluding hog products, whether or not the use is conducted on owned or leased property, and irregardless if agricultural products are used for personal consumption or sale.

C. Animal livestock and poultry operations, including horses, sheep, cows, goats, or llamas, must comply with the Buncombe County Animal Control Ordinance and meet the following requirements:

1. Maintain enclosures (corrals, fencing, paddocks) in good condition so that animals stay on property;
2. Protect perennial and intermittent streams from erosion and animal waste with stream exclusion systems, water delivery devices or other grazing management practices; and
3. Locate compost and feed storage areas at least 30 feet from property boundaries abutting residential uses and from perennial streams.
4. Maintain a 30-foot setback from the property line of an abutting residential use, for any structure, such as barns or stables but not including fencing.
5. Any lot used to maintain livestock shall be two acres or more. Livestock does not include fowl, such as chickens.
6. Not more than one animal unit shall be kept, maintained or stabled per 5,445 square feet (⅛ acre). For the purposes, of this section, one animal unit shall mean a goat, sheep, horse, cow, llama, alpaca, ostrich, or similar animal. Six chickens or similar poultry shall count as one animal unit.
7. The keeping of hogs is not permitted.

8. All livestock introduced onto a property where there is no pre-existing containment area (such as a fence, paddock, or enclosed pasture), except for chickens, shall be fenced so that they are no closer than 150 feet from an adjacent living unit. This shall not apply to residences constructed after the establishment of such livestock containment area. However, the containment area may not encroach further towards the newly established residence.

9. In residential and mixed-use districts, chickens are allowed but must be in an enclosed area in the side or rear yard, and any structures associated with the housing of chickens shall meet the accessory building requirements of this chapter. Roosters are only permitted in the industrial districts (HI-0 and LI-8) and CR-1 district.

10. This section shall not apply to cats, dogs, rabbits, or similar household pets.

D. In the CB, NMU-8, and UR-8 districts agricultural uses related to livestock and animal husbandry of any type, with the exemption of household pets or chickens, are prohibited. Properties with allowable agricultural uses not related to animals, must comply to setbacks, driveway standards, and other guidelines that are applicable within those districts.

E. Structures for storage of farm or maintenance equipment and supplies, and similar items associated with agricultural uses are permitted subject to the accessory structure setbacks for their respective zoning districts and shall not cover more than 30 percent of the total lot area.

F. Any greenhouse in any district other than the industrial (HI-0. LI-8) or highway-business (HB-8) districts shall be treated as an accessory building and shall meet the towns' zoning guidelines, setback and building requirements of the district in which it is located. Within the central business district a greenhouse may serve as an accessory structure and must be constructed of rigid materials. A greenhouse is only allowed as a primary structure in the HI-0, LI-8, or HB-8 districts and must comply with all other district requirements. All commercial greenhouses must receive a certificate of compliance and occupancy.

G. In all districts, regulations regarding flood hazard prevention, stormwater management, signage and lighting of the town shall apply to all agricultural uses.

SECTION 5.3 BOARDING AND ROOMING HOUSES

5.3.1 Boarding and rooming houses.

A. There shall be only one kitchen, a common dining room or study area, and no dining facilities or kitchens in the lodger's rooms where meals may be prepared and served.

B. Boarding or rooming houses exclude hotels, motels, group homes, bed and breakfast homes and bed and breakfast inns.

SECTION 5.4 DAY CARE CENTERS

5.4.1 Day care centers.

These requirements apply only to child and adult day care services providing care for more than six clients at a time.

A. Each day care shall be licensed or certified by the North Carolina Department of Health and Human Services required by state law.

B. Child day care centers shall provide a fenced outdoor play area. The fence shall not be less than four feet in height.

C. Day care centers shall provide locations for pick-up/drop off areas which do not impede traffic on town or state roads.

SECTION 5.5 FAMILY CARE HOMES

5.5.1 Family care homes.

In accordance with G.S. chs. 122C, 131D, and 160D, family care homes are deemed residential uses for zoning purposes subject to the following additional requirements:

A. Each family care home shall be licensed by the North Carolina Department of Health and Human Services as required by State law.

B. No family care home may be located within a one-half-mile radius of any other residential care home.

C. No exterior signage is permitted.

SECTION 5.6 HOME OCCUPATIONS

5.6.1 Home occupations.

A. Home occupations are permitted in all districts except in HI-0 where residential uses are considered a nonconforming use. However, within the HI-0 district, a home occupation may be integrated into a pre-existing residential structure in compliance with this chapter.

B. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling or the immediate neighborhood.

C. The intent of these regulations is to allow for home occupations throughout Black Mountain while minimizing the impact on neighbors and maintaining the same levels of noise, traffic, parking and other characteristics of the surrounding residential properties.

D. In no case shall any nonresidential use or home occupation consist of operations or conditions resulting in noise, odors, smoke, glare, dust, gases, excessive traffic, electrical or other radiation, or other characteristics of a type or to an extent which create a nuisance or hazard to adjacent or neighboring residential properties.

E. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of the building inspector.

F. No display of stock in trade which is sold on the premises shall be visible from outside the building. Catalog and internet products may be received and shipped from the premises to fulfill orders as long as goods, products or commodities are stored within the home or an accessory structure customarily found in a residential district.

G. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, unless the equipment or materials are of a type and quantity that could reasonably be associated with the principal residential use.

H. In residential districts, business identification or advertising signs are only permitted if they are attached to the primary or secondary structure and shall not exceed four square feet. All other signage must conform to the town sign and district regulations.

I. Off-street parking needed to accommodate the home occupation shall be provided onsite but shall not exceed four spaces.

J. In residential districts, delivery vehicles serving the home occupation shall be restricted to the hours of 9:00 a.m. and 5:00 p.m.

K. Adult day care homes and child care homes shall provide care to no more than five unrelated persons and shall require an annual certificate of occupancy or safety inspection to ensure adequate structure and fire safety as well as documentation certifying compliance with all state and federal standards.

L. No one who resides outside of the residence may work in the home.

M. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.

N. A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling, not to exceed 500 square feet.

O. Home occupations shall complete a home occupation application that includes zoning verification.

SECTION 5.7 MANUFACTURED HOMES ON INDIVIDUAL LOTS AND EMERGENCY HOUSING *(amended 1-13-2025)*

5.7.1 Purpose.

Because manufactured homes are built in the controlled environment of a manufacturing plant, are transported in one or more sections on a permanent chassis, and are built to the "HUD Code" which is a different standard than a modular or stick-built home, these guidelines are established locally to ensure that manufactured homes will meet certain specifications that protect the health safety and welfare of residents and to protect land values of adjacent properties.

5.7.2 General provisions.

A. The zoning administrator shall permit the temporary use of ~~manufactured homes, park model homes or recreational vehicles~~ **travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters** on individual lots under the following circumstances:

1. When fire, flood, ~~or~~ other natural catastrophe, **or a declared federal, state, or local disaster**, makes an existing ~~single-family~~ dwelling uninhabitable, as ~~an alternative and temporary residence used on the same lot~~ **emergency housing** for a period not to exceed ~~six months~~ **one (1) year.**

a. Upon submission of documentation from an aid agency, a unit of government, or a North Carolina-licensed contractor, that the repair or reconstruction of the dwelling will take more than one (1) year, the Zoning Administrator may extend the time period for up to two (2) additional years, with extension approval required at each one-year interval and with approval contingent on the submission of documentation from an aid agency, a unit of government, or a North Carolina-licensed contractor that the repair or reconstruction of the dwelling is ongoing and not complete.

2. During the active construction period of any single-family dwelling, as a temporary residence on the same lot by the owner of the lot for a period not to exceed 24 months or the active construction period, whichever is less.

3. During the active period of construction/installation of a manufactured home, as a temporary residence on the same lot for a period not to exceed six months or the active construction period, whichever is less.

4. During the active promotion of any residential subdivision or planned unit development, the zoning administrator may 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 12 months. The manufactured home may not serve as a residence.

5. As part of a manufactured housing or "park home" sales or manufacturing business.

6. **Building Permit. Electrical, plumbing, driveway and/or utility permits may be required for emergency housing.**

B. Manufactured homes used as residences on individual lots shall be considered principal uses for the purposes of the land use code and shall conform to the requirements of the district in which it is located.

C. Singlewide manufactured homes are permitted only if located within a manufactured home park as part of an approved special use permit or pre-existing park, or as a primary residence on a single-family lot, provided that the guidelines provided in subparagraph G [D] of this section are met

D. Manufactured homes shall adhere to the following guidelines:

1. Replacement units of existing manufactured housing must be of a newer model than the manufactured home it is replacing and must comply with the HUD Home Construction and Safety Standards.

If the unit is a mobile home:

2. The home must be a doublewide manufactured home or, if a singlewide, must be at least 16 feet in width and not exceed a length to width ratio of three to one (3:1).

3. The home shall have wheels, axles, transporting lights and towing apparatus removed within 15 days of placement.

4. The home must be placed on a permanent foundation or utilize skirting and underpinning that is constructed of materials that meet all existing requirements for manufactured homes as set forth in the state building code. All materials must be approved by the building inspector prior to installation.

5. The unit must have a shingled roof with a minimum pitch of one to three (1:3) and an overhang.

6. The exterior materials shall be of a color, material, and scale comparable with those existing in residential construction 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 adjoining properties.

7. The front door of the unit must face the street on which it is located if the shape of the lot allows.

8. The unit must have a wooden, brick or concrete stoop or decking of at least nine square feet in addition to steps as needed on any exterior door.

9. The unit must be replaced in such a way as to conform to district setbacks and yard requirements to the greatest extent possible.

10. The unit must connect to water and sewer services or have an approved septic system in place.

SECTION 5.8 FARM STANDS, TAILGATE SALES OR "GARDEN MARKETS"

5.8.1 Farm stands, tailgate sales or "garden markets."

A. Farm stands associated with garden markets shall be allowed as an accessory use in all districts.

B. Tailgate sales are permitted as long as they do inhibit traffic flow or safety, and with the permission of the property owner.

C. Off-premises produce stands shall be allowed as long as the use is for less than four continuous months.

D. All farm stands shall not be located closer than ten feet to any side lot line unless a greater setback is required for the zoning district in which it is located or as directed by the zoning administrator for the purpose of traffic safety.

E. Signs for a farm stand or tailgate sales shall not be illuminated, nor have flashing lights, nor shall they exceed four square feet in area. Off-premises signs are not permitted.

SECTION 5.9 NEIGHBORHOOD FUELING FACILITIES

5.9.1 Neighborhood fueling facilities.

Neighborhood fueling facilities are provided to provide fueling services be it gas, electric, or other fuel, within mixed-use districts. These types of business operations must be compatible with a residential area in terms of design, lighting and hours of operation, and regulations of the district in which it is located and shall also comply with the following requirements:

A. Must cease operations between the hours of 11:00 p.m. and 7:00 a.m.

B. Must provide adequate two points of ingress/egress for vehicles, and adequate space for fueling.

C. Must be of a design and building material that is in character with the surrounding neighborhood.

D. Signage must be of a monument style and be less than ten feet tall.

SECTION 5.10 NEWSPAPER AND PERIODICAL DISTRIBUTION BOXES

5.10.1 Newspaper and periodical distribution boxes.

The regulations of this section apply only to newspaper and periodical distribution boxes in the central business (CB) district.

A. Distribution boxes shall be identified by a sign indicating: material to be deposited, the name of the owner, and the contact information of the person responsible for the box.

B. Boxes shall be located away from the curb or roadway as much as possible and shall allow at least a 48-inch clearance area from the back of the curb to the box itself.

C. Boxes shall be constructed of weatherproof, or exterior grade, materials and shall be kept clean and in good repair and appearance and shall be kept free of rubbish.

D. Newspaper box or periodical distribution owners will furnish a schedule of delivery services for the box to the zoning administrator. Boxes empty for periods exceeding 30 days will be removed after the box owner is notified and lack of use confirmed with distributor.

E. No more than six boxes may be clustered together on a first come first placement basis.

F. Owners of distribution boxes not in compliance with these regulations shall be issued a notice of violation which shall allow 30 days for the owner or interested party responsible to comply. If 30 days elapse after the notice of violation and no action is taken, the zoning administrator shall remove the box and notify the owner.

G. Boxes removed by the zoning administrator for lack of compliance may be claimed within 45 days through the planning and development department. After 45 days, the department may dispose of unclaimed newspaper or magazine boxes.

SECTION 5.11 SECONDARY DWELLINGS

5.11.1 Secondary dwellings.

Secondary dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

A. Secondary dwellings shall meet the setbacks of the principal structure as set forth for the zoning district in which it is located.

B. Secondary dwellings shall be built to North Carolina Residential Building Code Standards.

C. The secondary dwelling size shall not exceed 50 percent of the square footage of the livable area of the primary structure or 1,100 square feet, whichever is less.

D. No secondary dwelling will be sited between the principal building and an adjacent public roadway, not including a private alleyway or driveway.

E. Only one secondary dwelling unit shall be permitted per zoning lot.

F. The exterior of the secondary dwelling will be of same style as the principal residence in terms of exterior material, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance.

G. If a manufactured home, the secondary dwelling shall not be pulled up to or attached to the primary residence, and must meet the requirements for manufactured housing in section 5.16 of this chapter.

H. Adequate off-street parking shall be provided at a ratio of two cars per dwelling unit on the same lot.

I. If there will be no public sanitary sewer service to the secondary dwelling, the county health department shall approve a septic system prior to construction.

J. Lots with duplexes shall not be allowed a secondary dwelling.

SECTION 5.12 WIRELESS COMMUNICATIONS

5.12.1 Wireless facilities not associated with a communications tower.

A. Wireless antennas and satellite dishes are permitted in all districts as long as:

1. They are not associated with a free-standing tower;
2. Are less than 3.28 feet (39.37" or one meter) in diameter; and
3. Are securely mounted.

B. This section does not apply to amateur radio antennas affected and controlled by FCC regulations codified in Chapter 47, Section 97, of the Code of Federal Regulations.

C. In residential districts, wireless antennas and satellite dishes greater than one meter in diameter must be located in the rear or side yard of the primary structure so as to be as unobtrusive from the right-of-way adjacent to the front yard as possible.

D. Wireless facilities associated with a tower are considered communications towers for purposes of these regulations and are allowed in certain zoning districts only upon issuance of a special use permit.

5.12.2 Wireless communication towers.

A. Freestanding, communication towers or attached wireless communication facilities shall only be permitted by approval of a conditional use permit.

B. All new wireless communication facilities shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A permit shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its wireless communication facility onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.

C. This section does not apply to amateur radio antennas affected and controlled by FCC regulations codified in Chapter 47, Section 97, of the Code of Federal Regulations.

D. In addition to general CUP requirements, the following shall apply:

1. No person, firm or corporation shall install or construct any wireless communication facility unless and until a tower antenna use application (TAA) has been issued pursuant to the communication tower requirements of this ordinance.

2. Applicant shall provide the town with adequate information to establish that a new facility is needed rather than co-locating on an existing tower or structure.

3. All applicants for wireless communications facilities are required to submit a statement with the application agreeing to allow and reasonably market collocation opportunities to other wireless communications facility users and to design facilities to allow for additional attachments. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The collocation agreement shall be considered a condition of issuance.

4. Construction of all wireless communication facilities shall comply with the requirements of the Town of Black Mountain Building Codes and permitting process in addition to the requirements of this ordinance.

5. Attached wireless communication facilities shall not add more than 20 feet to the height of the existing building or structure to which it is attached. Antenna attachments to existing communication towers shall not increase the height of tower above the maximum permitted height of that tower. In no instance shall a new tower exceeding 20 feet in height be allowed on a building.

6. Height for wireless communication facilities with support structures shall be reviewed on a case by case basis as part of the conditional use permit process. The height of the proposed facility should consider ground elevations, topographical conditions and other site development criteria within this ordinance.

7. Attached wireless communications facilities shall meet the setback provisions of the underlying zoning district in which they are located. An attached wireless communication facility antenna array may extend up to 30 inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel. Wireless communications facilities and towers with support structures shall fall within the setback requirements in their entirety.

8. Wireless communications facilities with support structures shall be enclosed by an opaque fence (excluding slatted chain link) not less than six feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of state or federal agencies.

9. Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference with the antennas or inhibits access to the equipment facility may be trimmed or removed.

10. Grading for the new wireless communication facility shall be minimized and limited only to the area necessary for the new facility.

11. Wireless communications facilities shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communications facility and the use of compatible or neutral colors, or camouflage technology.

12. Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for:

    - Security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and
    - Such illumination of the wireless communications facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences.
    - Unless otherwise required by the FAA or other applicable authority, the required light shall be red and a type of lens used to reduce ground lighting when the site is within 100 feet of a residential dwelling.

13. Wireless communications facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing wireless communications facilities.

14. Wireless facilities must provide documentation that proposed facility will meet all current, applicable FCC and Electronics Industries Association and Telecommunications Industries Association (EIA/TIA) standards.

15. Sound prohibited. No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

16. All utility lines for wireless communications facilities shall be installed underground to the wireless communications facility.

17. Access to the tower site must be graded and stoned in a manner that will allow access by police and fire/rescue units.

SECTION 5.13 TATTOO PARLOR/BODY PIERCING STUDIO

5.13.1 Tattoo parlor/body piercing studio.

A. No tattoo parlor or body piercing studio shall be located within 500 feet, as measured in a straight line from property line to property line, of:

1. Any other tattoo parlor or body piercing studio,
2. A church,

3. A public or private elementary or secondary school, child day care or nursery school,
4. A public park,
5. Residentially zoned or residentially used property, or
6. Any establishment with an on-premises ABC license.

B. Ear piercing, as a principal or accessory use, shall not be subject to this classification and these provisions.

C. Tattoo and/or body piercing operations shall not be considered as customary home occupations.

SECTION 5.14 RECREATION SERVICES

5.14.1 Recreation services (outdoor).

A. Service areas will be separated by an opaque screen from the view of any street and from abutting properties.

B. Chain link and similar fencing materials, if used, shall be painted on exterior side with evergreen shrubs a minimum of three feet in height at maturity and six feet on center at installation.

C. Outdoor lighting associated with outdoor recreational facilities shall comply with the current lighting ordinance.

SECTION 5.15 MOBILE FOOD VENDORS[44]

5.15.1 Mobile Food vendors.

A. Temporary use permit required.

1. Any mobile food vendor operating in the Town of Black Mountain must obtain a permit issued by the zoning administrator.
2. The vendor shall submit an application to planning department, which shall include a site plan showing the location or locations where the mobile food vendor will operate and demonstrate that all requirements of this ordinance can be met while operating at each location.
3. The vendor shall only operate at those locations specified in the permit.
4. A permit shall be valid for a period of one year from the date of issuance.

B. A valid health department inspection grade card from the Buncombe County Health Department shall be visually displayed on the mobile food truck or cart in clear view of all patrons.

C. Mobile food vendors shall operate only on private property with permission of the owner. No mobile food vendor shall operate on a public street, sidewalk or right-of-way.

[44]Ord. No. O-21-20 , adopted January 10, 2022, set out provisions intended for use as section 5.24. For purposes of classification to preserve the numbering style of this Code, and at the editor's discretion, these provisions have been included as section 5.15.

D. Mobile food vendors shall comply with the setback requirements for the zoning district in which the truck or cart is operating and, for purposes of setback regulations, shall be treated as a building or structure. No mobile food vendor shall be parked closer than ten feet from a structure or other mobile food vendor.

E. Each mobile food vendor shall have sufficient space to maneuver onto the lot and to allow for safe access by pedestrians and emergency response vehicles.

F. At least one onsite parking space per mobile food vendor is required, except that no onsite parking shall be required for a mobile food vendor operating in the central business district. Allocation of parking spaces to the mobile food vendor must not reduce available parking for other uses such that those uses would no longer meet minimum parking requirements.

G. Mobile food vendors shall remove trash and litter from the site each day and as needed. Mobile food vendors must maintain cleanliness of the site.

H. No temporary toilet facilities are allowed.

I. No seating may be provided.

J. No permanent water or sewer connections.

K. Propane tanks shall be inspected by the NC Department of Agriculture.

L. These regulations do not apply to mobile food vendors operating solely as part of a special event for which a permit has been issued by the Town of Black Mountain, or as part of a non-commercial, private event on private property when that event is non-recurring and of a temporary duration.

(Ord. No. O-21-20 , 1-10-2022; Ord. No. O-22-02 , 4-11-2022)

SECTION 5.16 MOBILE FOOD VENDOR COURTS[45]

5.16.1 Mobile food vendor courts.

A. Site requirements.

a. Before obtaining a zoning permit, the owner shall submit a site plan showing the location of spaces to be used by mobile food vendors, kitchen or restroom facilities, seating for patrons, site maneuvering, and parking.

b. There shall be at least one trash can per vendor or one dumpster for the entire court (see screening requirements).

c. Outdoor seating is allowed.

d. Permanent restroom facilities are allowed.

e. A permanent, on-site commissary kitchen is allowed.

f. Permanent power is recommended.

(Ord. No. O-21-20 , 1-10-2022; Ord. No. O-22-02 , 4-11-2022)

[45]Ord. No. O-21-20 , adopted January 10, 2022, set out provisions intended for use as section 5.25. For purposes of classification to preserve the numbering style of this Code, and at the editor's discretion, these provisions have been included as section 5.16.

SECTION 5.17 MOBILE RETAIL VENDORS

5.17 Mobile Retail Vendors. Section Added/Adopted 9-9-2024, Amended 12-9-2024

A. Temporary Use Permit Required

1. Any mobile retail vendor operating in the Town of Black Mountain must obtain a permit issued by the Zoning Administrator.
2. The vendor will submit an application to the Planning and Development Department, which shall include a site plan showing the location or locations where the mobile retail vendor will operate and demonstrate that all requirements of this ordinance can be met while operating at each location.
3. The vendor will only operate at those locations specified in the permit.
4. A permit will be valid for a period of one year from the date of issuance.

B. Operating Location and Requirements

1. Mobile retail vendors will operate only on private non-residential property with permission of the owner. No mobile retail vendors will operate on a public street, sidewalk, or right-of-way.
2. Mobile retail vendors will be allowed as a primary use or secondary use.
3. Mobile retail vendors will comply with the setback requirements for the zoning district in which the vendor is operating and, for purposes of setback regulations, will be treated as a building or structure. No mobile retail vendor will be parked closer than ten feet from a structure or other mobile retail vendor.
4. Each mobile retail vendor will have sufficient space to maneuver onto the lot and to allow for safe access by pedestrians and emergency response vehicles.
5. Sight triangles must be maintained to ensure visibility (see Section 4.4.6).
6. At least one onsite parking space per mobile retail vendor is required, except that no onsite parking will be required for a mobile retail vendor operating in the central business district. Allocation of parking spaces to the mobile retail vendor must not reduce available parking for other uses such that those uses would no longer meet minimum parking requirements.
7. Signage.
    a. Cantilevered ground sign that has a pole with a maximum height of six feet, and with a sign that has a maximum square footage of five square feet will be allowed.
8. Number of Mobile Retail Vendors
    a. In the central business, highway business, and neighborhood mixed use districts, mobile retail vendors will be limited to one per parcel.
    b. In the light industrial, heavy industrial, and traditional neighborhood districts, mobile retail vendors will be limited to six per parcel.
    c. In the central business, neighborhood mixed use, light industrial, and light industrial districts, there will be a maximum of five (5) mobile retail vendors per district. *(amendment added 12-9-2024)*

d. In the highway business and traditional neighborhood district, there will be a maximum of ten (10) mobile retail vendors per district. *(amendment added 12-9-2024)*

9. Use of generators by mobile retail vendors is prohibited.
10. Hours of Operation.
    a. Mobile retail vendors may operate between the hours of 6:00 a.m. and 10:00 p.m. daily.

C. Site Maintenance

1. Mobile retail vendors will remove trash and litter from the site each day and as needed. Mobile retail vendors must maintain the cleanliness of the site.
2. No temporary toilet facilities will be allowed.
3. No permanent water or sewer connections will be allowed.
4. All temporary signs, seating, and merchandise must be removed and/or brought into the mobile unit during non-operating hours.

D. Special Events

1. These regulations do not apply to mobile retail vendors operating solely as part of a special event for which a permit has been issued by the Town of Black Mountain, or as part of a non-commercial, private event on private property when the event is non-recurring and of a temporary duration.

(Ord. No. O-24-14, September 9, 2024)

Section 5.18 EMERGENCY HOUSING (section added 1-13-2025)

5.18.1 Purpose *(section added 1-13-2025)*

To permit the use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to a declared federal, state, or local disaster.

5.18.2 General Provisions *(section added 1-13-2025)*

A. Eligibility. Applicant must provide proof they:

1. Own, occupy or occupied, as their primary residence, a structure damaged or made inaccessible by the declared disaster; or,

2. Are assisting with disaster recovery efforts through a unit of government, agency, nonprofit, or company.

B. Siting

1. Emergency housing may only be on a site other than a damaged or inaccessible home if said housing is operated by FEMA or other federal agency, by a unit of state government, or a unit of local government.

2. Debris Removal. Emergency housing shall not obstruct or prevent recovery and debris removal operations.

3. Floodways and Floodplains. Emergency housing shall be prohibited within regulated floodways and floodplains.

4. Landslide and Heavily Damaged Flood Areas: Emergency housing applicants located within landslide or heavily damaged flood areas is strongly recommended to confer with a geotechnical engineer to evaluate site stability prior to placement of the emergency housing on a site, and during reconstruction and redevelopment of a site.

C. Temporary Use. Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year.

D. Number of Units. No more than one (1) emergency housing unit may be placed on an individual lot, except where the site is operated by FEMA or other federal agency, by a unit of state government, or a unit of local government.

E. Utilities. Emergency housing shall be immediately connected to an approved public or private wastewater system, potable water source, and public electrical service, except where the unit is a travel trailer in which case it shall be connected within the following time limits:

   a. Electrical Service and Potable Water: Within three (3) months from the date of placement.

   b. Wastewater: Within six (6) months from the date of placement, with the option of the Zoning Administrator extending for an additional six (6) months with proof of contract to remove waste.

F. Addressing. Emergency housing shall meet the E-911 addressing requirements which may differ dependent upon emergency housing unit type.

G. Setbacks. Setbacks shall apply to emergency housing regardless of type.

H. Spacing. Emergency housing units shall be separated from each other by a distance of at least ten (10) feet.

I. Access. Where three (3) or more emergency housing units are placed on a single lot, those units shall be accessed by a vehicular drive aisle on at least one side of the trailer, which is a minimum of 20 feet in widths for two-direction traffic, or a minimum of 12 feet in width for single-direction traffic, or a minimum of 30 feet for two-direction traffic that contains on-street parking. No parking shall be allowed within the vehicular drive aisle. A site plan that shows uniformity with this access requirement must be submitted.

J. Parking. The minimum required parking for emergency housing shall be one (1) space per emergency housing temporary dwelling unit. The Zoning Administrator may reduce the required parking if the applicant can demonstrate that less than one space per temporary dwelling unit is sufficient. Parking spaces will be of an all-weather surface.

K. Waste Management. The property owner or operator of group sites shall provide capacity for a weekly accumulation of solid waste and recycling on site through the provision of dumpsters or acceptable containers. Waste containers must be serviced at least once a week unless the group site has been vacant for the entirety of the week. Dumpsters shall not be located within any required setbacks.

L. Steep Slope. The provisions of the Erosion Prevention and Slope Protection Ordinance apply to emergency housing.

M. Building Permit. Electrical, plumbing, driveway, and/or utility permits may be required for emergency housing.

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 12:58 PM
To: Jennifer Tipton
Subject: FW: 1114 Montreat Road - floodplain development; what use are you establishing?

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, April 23, 2025 2:29 PM
To: rbrunson@ncbaptist.org
Cc: Anne Phillip <anne.phillip@tobm.org>
Subject: 1114 Montreat Road - floodplain development; what use are you establishing?

Hi Richard,
Thank you for your voicemail. You mentioned possibly tearing down a building at 1114 Montreat Rd. (071041779500000). That might constitute "work within a flood hazard area as indicated on the FIRM maps," thus triggering the Town code requirement for a pre-application consultation and technical review. (Quoting from Section 1.4.6 of Chapter 1. FIRM stands for Flood Insurance Rate Map.)

So, please reach out to Anne Phillip because she is Floodplain Administrator:

Anne Phillip
Stormwater Technician and Floodplain Administrator
828-419-9374
Anne.Phillip@tobm.org

(I've cc'd Anne.)

As I wrote in my previous email, our code does not permit a use (any use) to be established without the use conforming with zoning regulations. For me to assist you, send me an email stating which of the following uses that are permitted in the Urban Residential (UR-8) zoning district you are establishing:

- Shared Housing/Community Living Facilities (permitted by right)
- Single-Family Residence (permitted by right)
- Two-Family Residence (Duplex) (permitted by right)
- Government Facility (permitted by right)
- Place of Worship (permitted by right)

- Public Utilities (permitted by right)
- Accessory Structure (permitted by right)
- Camp, Summer (permitted by right)
- Bed and Breakfast Home (permitted by right)

- Emergency Housing (additional requirements, which are detailed in Chapter 5)
- Manufactured Home on Individual Lot (additional requirements)
- Secondary Dwelling (additional requirements)
- Boarding House (additional requirements)
- Family Care Home (additional requirements)
- Agriculture (additional requirements)
- Agriculture (additional requirements)
- Bed and Breakfast Inn (additional requirements)
- Day Care Center (additional requirements)
- Garden Market (additional requirements)
- Home Occupation (additional requirements)

- Conservation Subdivision (permitted via a Special Use Permit, which is issued by the Board of Adjustment)
- Cottage Housing Development (Special Use Permit)
- Planned Unit Development (Special Use Permit)
- Manufactured Home Park (Special Use Permit)
- Multi-Family Residential (Special Use Permit)

If any terms aren't clear, see Section 1.2.3, which I emailed to you previously.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 12:59 PM
To: Jennifer Tipton
Subject: FW: Tech review meeting - 1114 Montreat Rd

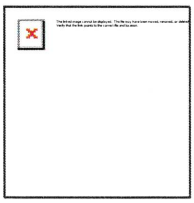
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828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Thursday, May 8, 2025 3:00 PM
To: Richard Weeks <richard.weeks@ncmissions.org>
Subject: RE: Tech review meeting - 1114 Montreat Rd

Will do. Thank you, Richard.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Richard Weeks <richard.weeks@ncmissions.org>
Sent: Thursday, May 8, 2025 12:12 PM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: Tech review meeting - 1114 Montreat Rd

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Russell

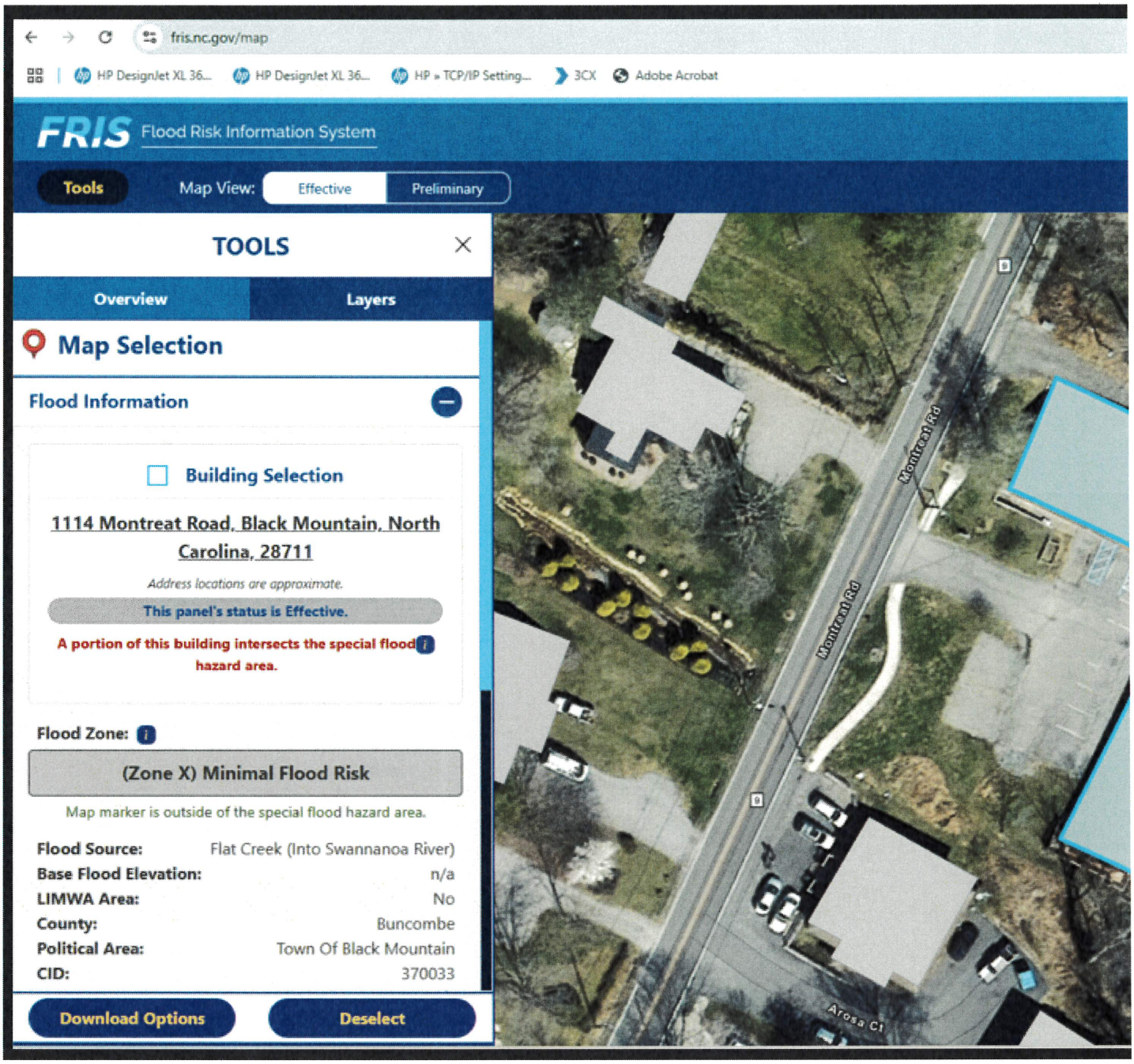
Thank you so much for time today. If you have any more questions feel free to contact me at 910-590-1720.

On Thu, May 1, 2025 at 8:19 AM Russell Cate <russell.cate@tobm.org> wrote:

Meeting location: Town Hall, 160 Midland Ave., Blk Mtn 28711.

This tech review meeting is with Baptists On Mission regarding 1114 Montreat Rd. (071041779500000). A "pre-application consultation and technical review" is required for any work within the federal blue ***AE*** zone. And Chapter 4 (Zoning) includes the following: "No building or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the town zoning regulations."

NC Flood Risk Information System:



USGS *topoBuilder* (this USGS 7.5-minute topo map is the basis for Article IX (Stream Buffer Protection Standards) in Chapter 20:



The parcel is in the Urban Residential (UR-8) zoning district. Two uses under consideration are ***Boarding House*** and ***Shared Housing/Community Living Facility***.

Boarding House

Definition

Boarding House or Rooming House: A dwelling unit or part thereof in which, for compensation, lodging and meals are provided on a minimum of a weekly basis for at least three, but less than ten, unrelated individuals and where the owner or manager is a full-time resident of said establishment. Excludes hotels, motels, bed and breakfast homes and bed and breakfast inns.

Requirements [Section 5.3.1 of Chapter 5]

A. There shall be only one kitchen, a common dining room or study area, and no dining facilities or kitchens in the lodger's rooms where meals may be prepared and served.

B. Boarding or rooming houses exclude hotels, motels, group homes, bed and breakfast homes and bed and breakfast inns.

Shared Housing/Community Living Facility

Definition

Shared Housing Arrangements/Community Living: Dwellings, that offer communal areas and services such as housekeeping, transportation, organized social and recreational activities, and other support services for seven or more residents, but excluding assisted living facilities for the elderly or other medical facilities. **See also "Group Home."**

Group Home: A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are provided services to meet their needs such as halfway houses and foster homes so long as they house seven or more individuals and are distinct from group homes from developmentally disabled adults or adult care homes. Similar facilities providing care for less than seven individuals shall be treated as a single-family residence under zoning district regulations.

Please note that tech review meetings are recorded. Thank you.

Russell B. Cate, CZO

Planner, Zoning Administrator

828-419-9373

Russell.cate@tobm.org

Town of Black Mountain, NC

160 Midland Ave. | Black Mountain NC 28711

www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:00 PM
To: Jennifer Tipton
Subject: FW: zoning determination for 1114 Montreat Rd. (071041779500000)
Attachments: 1114 Montreat Road - Zoning Determination Letter.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, May 13, 2025 2:02 PM
To: richard.weeks@ncmissions.org; rbrunson@ncmissions.org
Cc: Don Grindstaff <dgrindstaff53@gmail.com>; Tom Turner <turner.slt492@gmail.com>; Marion Site <marion.rebuild@ncmissions.org>; Tracey Setzer <tsetzer@mossmarlow.com>; Jimmy Lamm <Jimmy.lamm@gmail.com>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: zoning determination for 1114 Montreat Rd. (071041779500000)

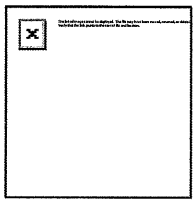
Good afternoon Richard Weeks and Richard Brunson,

Per your request, I've prepared a zoning determination letter for 1114 Montreat Rd. (071041779500000) – please see attached.

We briefly discussed the use *Shared Housing Arrangements/Community Living*, but that use focuses on support services to residents. Your project goal doesn't involve support services, and our code defines a resident as an individual whose "principal place of living" is in a particular location.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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TOWN OF BLACK MOUNTAIN

160 Midland Avenue • Black Mountain, North Carolina 28711
Phone (828) 419-9300 • Fax (828) 419-7210 • TDD 800-735-2962
www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member Doug Hay
Council Member Pam King
Council Member Ryan Stone

Town Manager
Josh M. Harrold

Assistant Town Manager
Jessica Trotman

Town Clerk
Wesley M. Barker

May 13, 2025

North Carolina Baptist Men
PO Box 1107
Cary, NC 27512-1107

RE: Zoning Determination for 1114 Montreat Road
Buncombe County Property ID Number (PIN): 071041779500000
Zoning District: Urban Residential (UR-8)

Baptists On Mission and North Carolina Baptist Men:

At the preliminary tech review meeting held on May 8, 2025, I offered to provide a zoning determination letter for 1114 Montreat Road. The property is in the Urban Residential (UR-8) zoning district.

You've stated the project goal as hosting volunteers and volunteer groups for overnight stays ranging from one to 14 days, with only one kitchen, a common dining room or study area, and no dining facilities or kitchens in lodgers' rooms. This corresponds with the use ***Boarding House or Rooming House*** only if you have no more than nine individuals spend the night on any given night, and if the owner or manager is a full-time resident.

At the May 8 preliminary tech review meeting, you stated that you intend to have from 25 to 100 individuals spend the night. This does not align with the ***Boarding House or Rooming House*** limit of nine individuals.

If you submit a permit application to establish the use ***Boarding House or Rooming House***, your plans will have to show that no more than nine individuals will spend the night on any night, as well as showing conformity with the other requirements (such as the owner or manager being a full-time resident).

continued

Staff have scoured the Code of Ordinances for any way that your project goal can fit within what code allows. Unfortunately, we cannot find anything that aligns. As a reminder, please note that – per state statute – the Town is not able to issue a variance to allow a use to be established outside of what is listed as permitted on the Table of Uses.

Reference: Section 4.7.14 (Table of Uses by Zoning District) of Chapter 4, and Section 1.2.3 (Definitions) of Chapter 1.

Should you have any questions, please feel free to contact me at 818-419-9373 or Russell.cate@tobm.org.

Sincerely,

Russell Cate, CZO

Planner & Zoning Administrator

CC: Michelle Kennedy, Planning Director

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:01 PM
To: Jennifer Tipton
Subject: FW: zoning determination for 1114 Montreat Rd. (071041779500000)

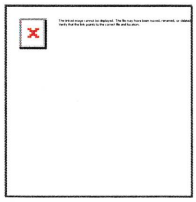
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828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, May 13, 2025 2:22 PM
To: Richard Weeks <richard.weeks@ncmissions.org>
Subject: RE: zoning determination for 1114 Montreat Rd. (071041779500000)

Hi Richard,
In my role as zoning administrator, there's nothing further I can think to offer. Please note that Michelle is Planning Director and she was in the beginning of the preliminary tech review meeting, and she's cc'd on my letter. You're free to reach out to her if you want.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Richard Weeks <richard.weeks@ncmissions.org>
Sent: Tuesday, May 13, 2025 2:15 PM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: zoning determination for 1114 Montreat Rd. (071041779500000)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Is there anyway we can talk to see what our next steps are
On Tue, May 13, 2025 at 2:02 PM Russell Cate <russell.cate@tobm.org> wrote:

> Good afternoon Richard Weeks and Richard Brunson,
>
> Per your request, I've prepared a zoning determination letter for 1114 Montreat Rd. (071041779500000) – please see attached.
>
> We briefly discussed the use *Shared Housing Arrangements/Community Living*, but that use focuses on support services to residents. Your project goal doesn't involve support services, and our code defines a resident as an individual whose "principal place of living" is in a particular location.
>
> Thank you.
>
> **Russell B. Cate, CZO**
>
> Planner, Zoning Administrator
>
> 828-419-9373
>
> Russell.cate@tobm.org
>
> Town of Black Mountain, NC
>
> **160 Midland Ave. | Black Mountain NC 28711**
>
> www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:02 PM
To: Jennifer Tipton
Subject: FW: I've received the needed email from the NC Dept of Public Safety; look for a revised zoning determ. ltr shortly

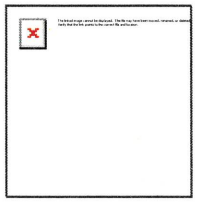
Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, May 14, 2025 2:50 PM
To: richard.weeks@ncmissions.org; rbrunson@ncmissions.org
Cc: Don Grindstaff <dgrindstaff53@gmail.com>; Tom Turner <turner.slt492@gmail.com>; Marion Site <marion.rebuild@ncmissions.org>; Tracey Setzer <tsetzer@mossmarlow.com>; Jimmy Lamm <Jimmy.lamm@gmail.com>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: I've received the needed email from the NC Dept of Public Safety; look for a revised zoning determ. ltr shortly

I've received the needed email from Kristin Moyle at the NC Dept of Public Safety; please look for a revised zoning determination letter from me shortly.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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From: Russell Cate
Sent: Tuesday, May 13, 2025 2:02 PM
To: richard.weeks@ncmissions.org; rbrunson@ncmissions.org

Cc: Don Grindstaff <dgrindstaff53@gmail.com>; Tom Turner <turner.slt492@gmail.com>; Marion Site <marion.rebuild@ncmissions.org>; Tracey Setzer <tsetzer@mossmarlow.com>; Jimmy Lamm <Jimmy.lamm@gmail.com>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: zoning determination for 1114 Montreat Rd. (071041779500000)

Good afternoon Richard Weeks and Richard Brunson,

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Thank you.

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Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:02 PM
To: Jennifer Tipton
Subject: FW: zoning determination for 1114 Montreat Rd. (071041779500000) [use: Emergency Housing]
Attachments: 1114 Montreat Road - Zoning Determination Letter 5.14.2025.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

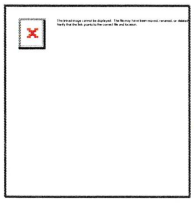
From: Russell Cate
Sent: Wednesday, May 14, 2025 3:40 PM
To: richard.weeks@ncmissions.org; rbrunson@ncmissions.org
Cc: Don Grindstaff <dgrindstaff53@gmail.com>; Tom Turner <turner.slt492@gmail.com>; Marion Site <marion.rebuild@ncmissions.org>; Tracey Setzer <tsetzer@mossmarlow.com>; Jimmy Lamm <Jimmy.lamm@gmail.com>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: zoning determination for 1114 Montreat Rd. (071041779500000) [use: Emergency Housing]

Good afternoon Richard Weeks and Richard Brunson,

Per your request, I've prepared a zoning determination letter for 1114 Montreat Rd. (071041779500000) – please see attached.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711

TOWN OF BLACK MOUNTAIN

160 Midland Avenue • Black Mountain, North Carolina 28711
Phone (828) 419-9300 • Fax (828) 419-7210 • TDD 800-735-2962
www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member Doug Hay
Council Member Pam King
Council Member Ryan Stone

Town Manager
Josh M. Harrold

Assistant Town Manager
Jessica Trotman

Town Clerk
Wesley M. Barker

May 14, 2025

North Carolina Baptist Men
PO Box 1107
Cary, NC 27512-1107

RE: Zoning Determination for 1114 Montreat Road
Buncombe County Property ID Number (PIN): 071041779500000
Zoning District: Urban Residential (UR-8)

Baptists On Mission and North Carolina Baptist Men:

At the preliminary tech review meeting held on May 8, 2025, I offered to provide a zoning determination letter for 1114 Montreat Road. The property is in the Urban Residential (UR-8) zoning district.

In the context of the late September 2024 emergency declaration, you've stated the project goal as hosting volunteers and volunteer groups for overnight stays ranging from one to 14 days, related to a declared federal, state, or local disaster. This corresponds with the use ***Emergency Housing*** [Section 5.18 (Emergency Housing) of Chapter 5].

We've received communication from the NC Department of Public Safety (DPS) stating that Baptists On Mission / North Carolina Baptist Men operates in collaboration with DPS, which meets the requirement stated in Section 5.18.2 (A) (2).

As a reminder, Section 5.18.1 states that the use purpose is "to permit the use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to a declared federal, state, or local disaster." And

continued

Section 5.18.2 (C) states: "Temporary Use. Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year."

Should you have any questions, please feel free to contact me at 818-419-9373 or Russell.cate@tobm.org.

Sincerely,

Russell Cate, CZO

Planner & Zoning Administrator

CC: Michelle Kennedy, Planning Director

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:04 PM
To: Jennifer Tipton
Subject: FW: Attached Image

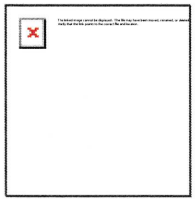
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828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, July 29, 2025 8:02 AM
To: Paul Langston <plangston@ncbaptist.org>; Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>
Subject: RE: Attached Image

Good morning Paul,
I've forwarded this to Michelle for review, and we'll let you know as soon as we have a response.
Thanks!

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
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From: Paul Langston <plangston@ncbaptist.org>
Sent: Monday, July 28, 2025 3:36 PM
To: Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>; Russell Cate <russell.cate@tobm.org>
Subject: Fwd: Attached Image

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mr. Cate,

Thank you for all you do to serve the people of Black Mountain. You are a blessing to many.

We are thankful for all you have done to help us get the facility in order at 1114 Montreat Road in Black Mountain to serve people who were affected by Helene.

Attached is a letter asking your permission to put a travel trailer on the property while we complete these repairs and renovations.

Please let us know if you have any questions or we need to do anything more.

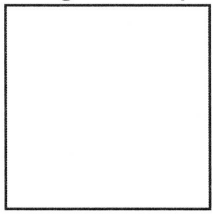
---------- Forwarded message ---------
From: <scan2email@ncbaptist.org>
Date: Mon, Jul 28, 2025 at 3:28 PM
Subject: Attached Image
To: Paul Langston <plangston@ncbaptist.org>

--
In His service,

Paul Langston
Missions Mobilization Consultant
Baptists On Mission
O: (919) 459-5611
Mobile: (919) 604-4778

Baptists On Mission exists to glorify God by involving churches and Christians in meeting human needs in Jesus' name.

Thank you for your generosity to the North Carolina Mission Offering which provides the entire regular budget of Baptists on Mission.



Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:04 PM
To: Jennifer Tipton
Subject: FW: travel trailer use during the time you have work underway under your issued building permit is OK

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

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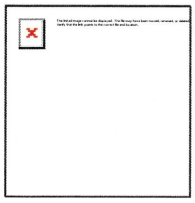
From: Russell Cate
Sent: Tuesday, July 29, 2025 9:33 AM
To: Paul Langston <plangston@ncbaptist.org>; Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: travel trailer use during the time you have work underway under your issued building permit is OK

Hi Paul,
Our code doesn't specifically prohibit or permit such travel trailer use at a parcel that's being redeveloped to establish the use Emergency Housing. Thus, we are using Sec. 5.7.2 (2) as the basis for telling you that a single travel trailer can be used during the time work is proceeding under your issued building permit. Sec. 5.7.2 (2) states that a travel trailer can be used "during the active construction period of any single-family dwelling, as a temporary residence on the same lot by the owner of the lot for a period not to exceed 24 months or the active construction period, whichever is less."

We don't issue permits for setting up a travel trailer under the provisions of Sec. 5.7.2 (2). That said, we are glad you've stated you'll set up the trailer on the back area of the lot, but outside the 100-year flood zone, and that you'll set up and maintain the trailer in compliance with the manufacturer instructions.

Many thanks, and we hope your project is moving along well.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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Sent: Monday, July 28, 2025 3:36 PM
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Subject: Fwd: Attached Image

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Please let us know if you have any questions or we need to do anything more.

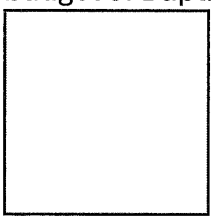
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Paul Langston
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Mobile: (919) 604-4778

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Sent: Tuesday, December 9, 2025 1:05 PM
To: Jennifer Tipton
Subject: FW: travel trailer use during the time you have work underway under your issued building permit is OK

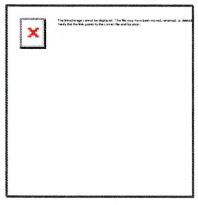
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Russell.cate@tobm.org

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From: Russell Cate
Sent: Tuesday, July 29, 2025 11:57 AM
To: Paul Langston <plangston@ncbaptist.org>
Cc: Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: RE: travel trailer use during the time you have work underway under your issued building permit is OK

Hi Paul,
No, we don't need anything else.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Paul Langston <plangston@ncbaptist.org>
Sent: Tuesday, July 29, 2025 10:11 AM
To: Russell Cate <russell.cate@tobm.org>
Cc: Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>; Michelle

Kennedy <michelle.kennedy@tobm.org>
Subject: Re: travel trailer use during the time you have work underway under your issued building permit is OK

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Hello Russell,

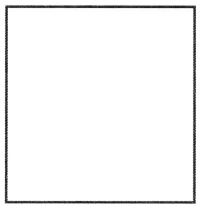
Yes, it will be out of the 100 year flood zone and we hope will be very temporary.

Things are going well at the Black Mountain Center and we look forward to what we can do to assist homeowners in the years ahead.

Do you need us to do anything else, Russell?

On Tue, Jul 29, 2025 at 9:33 AM Russell Cate <russell.cate@tobm.org> wrote:

> Hi Paul,
>
> Our code doesn't specifically prohibit or permit such travel trailer use at a parcel that's being redeveloped to establish the use Emergency Housing. Thus, we are using Sec. 5.7.2 (2) as the basis for telling you that a single travel trailer can be used during the time work is proceeding under your issued building permit. Sec. 5.7.2 (2) states that a travel trailer can be used "during the active construction period of any single-family dwelling, as a temporary residence on the same lot by the owner of the lot for a period not to exceed 24 months or the active construction period, whichever is less."
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>
> Many thanks, and we hope your project is moving along well.
>
> **Russell B. Cate, CZO**
>
> Planner, Zoning Administrator
>
> 828-419-9373
>
> Russell.cate@tobm.org



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Sent: Monday, July 28, 2025 3:36 PM
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Please let us know if you have any questions or we need to do anything more.

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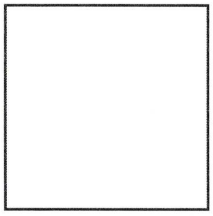
--

In His service,

Paul Langston
Missions Mobilization Consultant
Baptists On Mission
O: (919) 459-5611
Mobile: (919) 604-4778

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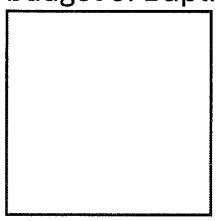
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Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 12:59 PM
To: Jennifer Tipton
Subject: FW: for our follow-up discussion about 1114 Montreat Rd

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Thursday, May 8, 2025 12:28 PM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: for our follow-up discussion about 1114 Montreat Rd

Hi Michelle,
Having provided the Baptists On Mission team a good amount of use-definition information and clarification over the last few weeks, going into today's tech review meeting I thought everyone was clear about the fundamentals of ***Boarding House Or Rooming House*** and ***Shared Housing Arrangements/Community Living***. But I was wrong because shortly after you hung up, the team noted that as many as 100 people will spend the night at the building for one-to-14 day volunteer commitments. The structure has 26 rooms – they plan bunkbeds accommodating 4-5 people per room, except 6-8 people in a couple of the rooms that are larger. There will be an on-site Site Coordinator, but they will not be a full-time resident.

The development team understands I'll get back soon about confirmation/clarification about the two uses, and I noted I likely will do my standard thing of emailing them a 'zoning determination' letter, just so they have something complete and in writing.

I've highlighted the items that I'm struggling to see fitting with the concept (called a "rebuild center") explained by the team today:

> Boarding House
> *Definition*
> **Boarding House or Rooming House**: A dwelling unit or part thereof in which, for compensation, lodging and meals are provided on a minimum of a weekly basis for at least three, but less than ten, unrelated individuals and where the owner or manager is a full-time resident of said establishment. Excludes hotels, motels, bed and breakfast homes and bed and breakfast inns.
> *Requirements* [Section 5.3.1 of Chapter 5]

A. There shall be only one kitchen, a common dining room or study area, and no dining facilities or kitchens in the lodger's rooms where meals may be prepared and served.
B. Boarding or rooming houses exclude hotels, motels, group homes, bed and breakfast homes and bed and breakfast inns.

Shared Housing/Community Living Facility
Definition
Shared Housing Arrangements/Community Living: Dwellings, that offer communal areas and services such as housekeeping, transportation, organized social and recreational activities, and other support services for seven or more residents, but excluding assisted living facilities for the elderly or other medical facilities. **See also "Group Home."**
Group Home: A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are provided services to meet their needs such as halfway houses and foster homes so long as they house seven or more individuals and are distinct from group homes from developmentally disabled adults or adult care homes. Similar facilities providing care for less than seven individuals shall be treated as a single-family residence under zoning district regulations.

We don't define support services, and there's no definition in APA's *A Planner's Dictionary*. We do define resident, and volunteers staying one to 14 days doesn't fit: An individual whose principle place of living and sleeping is in a particular location is a resident of that location.

For the rest of the meeting after ***100*** was noted, everyone at the meeting circled back to me needing to confirm the language of our definitions, to get the zoning determination letter done.....No one expressed anger. Also, I brought up off-street parking and said I'll get back to them about that .....they are clear that it might be bad news for them.

You can see how this harder look by me post-meeting (at term definitions, etc.) makes me less optimistic about their planned use fitting into the Table of Uses. Look forward to chatting with you.

Thanks.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:00 PM
To: Jennifer Tipton
Subject: FW: one other thing I'd like to talk through with you before sending the determination letter

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

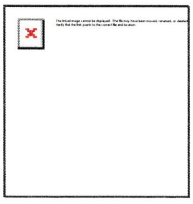
Town of Black Mountain, NC
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From: Russell Cate
Sent: Tuesday, May 13, 2025 11:20 AM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: one other thing I'd like to talk through with you before sending the determination letter

Michelle – Rick brought the use Emergency Housing (Sec. 5.18) to my attention as possibly informing Baptists on Mission's thoughts regarding 1114 Montreat. Council adopted Sec. 5.18 on 1/13/2025. I don't think their plans align but I'd like to discuss with you.

Thanks.

Russell B. Cate, CZO
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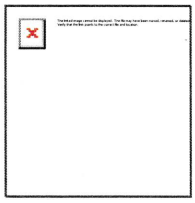
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From: Russell Cate
Sent: Tuesday, May 13, 2025 1:57 PM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: RE: one other thing I'd like to talk through with you before sending the determination letter

Thank you. I'll proceed with emailing the pdf'd letter.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Michelle Kennedy <michelle.kennedy@tobm.org>
Sent: Tuesday, May 13, 2025 1:56 PM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: one other thing I'd like to talk through with you before sending the determination letter

I understand the thinking but that doesn't change the zoning decision for me.

In community,

Michelle Kennedy
Planning Director
Town of Black Mountain
160 Midland Ave
Black Mountain NC 28711
336-202-8421

From: Russell Cate <russell.cate@tobm.org>
Sent: Tuesday, May 13, 2025 11:20:17 AM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: one other thing I'd like to talk through with you before sending the determination letter

Michelle – Rick brought the use Emergency Housing (Sec. 5.18) to my attention as possibly informing Baptists on Mission's thoughts regarding 1114 Montreat. Council adopted Sec. 5.18 on 1/13/2025. I don't think their plans align but I'd like to discuss with you.

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Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:01 PM
To: Jennifer Tipton
Subject: FW: good news (follow up on the zoning determination letter)

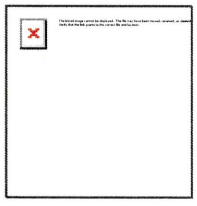
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Russell.cate@tobm.org

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From: Russell Cate
Sent: Wednesday, May 14, 2025 11:19 AM
To: Anne Phillip <anne.phillip@tobm.org>; Doug Morrow <doug.morrow@tobm.org>; Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: good news (follow up on the zoning determination letter)

An important followup: Michelle and I just had a productive meeting on site with Baptists On Mission at 1114 Montreat Road. I'm optimistic I'll be sending a revised zoning determination soon approving use as spelled out in Section 5.18 (Emergency Housing) of Chapter 5.
Thanks everyone.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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From: Russell Cate
Sent: Tuesday, May 13, 2025 3:17 PM
To: Anne Phillip <anne.phillip@tobm.org>; Doug Morrow <doug.morrow@tobm.org>; Rick Burton <rick.burton@tobm.org>

Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: FW: zoning determination for 1114 Montreat Rd. (071041779500000)

Hi Anne, Doug, Rick,
Since you were part of the preliminary tech review meeting, I'm sharing this as a FYI.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, May 13, 2025 2:02 PM
To: richard.weeks@ncmissions.org; rbrunson@ncmissions.org
Cc: Don Grindstaff <dgrindstaff53@gmail.com>; Tom Turner <turner.slt492@gmail.com>; Marion Site <marion.rebuild@ncmissions.org>; Tracey Setzer <tsetzer@mossmarlow.com>; Jimmy Lamm <Jimmy.lamm@gmail.com>; Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: zoning determination for 1114 Montreat Rd. (071041779500000)

Good afternoon Richard Weeks and Richard Brunson,

Per your request, I've prepared a zoning determination letter for 1114 Montreat Rd. (071041779500000) – please see attached.

We briefly discussed the use *Shared Housing Arrangements/Community Living*, but that use focuses on support services to residents. Your project goal doesn't involve support services, and our code defines a resident as an individual whose "principal place of living" is in a particular location.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:04 PM
To: Jennifer Tipton
Subject: FW: NC Baptists on Mission request to place travel trailer on 1114 Montreat Rd. for occupancy during period of construction
Attachments: 4798_001.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, July 29, 2025 8:11 AM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: NC Baptists on Mission request to place travel trailer on 1114 Montreat Rd. for occupancy during period of construction

Good morning Michelle,
Can you review this request from NC Baptists on Mission to have use of a travel trailer by a site manager during the period of rehab/construction at 1114 Montreat Rd.? As a reminder, the permit for 1114 Montreat Rd. is to establish the use Emergency Housing. (Emergency Housing is Sec. 5.18.)

For single-family dwellings, a different section (Sec. 5.7 – Manufactured Homes on Individual Lots and Emergency Housing) allows "travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters" on an individual lot "During the active construction period of any single-family dwelling, as a temporary residence on the same lot by the owner of the lot for a period not to exceed 24 months or the active construction period, whichever is less."

Please let me know if you have questions for Paul, or are able to approve this request.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Paul Langston <plangston@ncbaptist.org>
Sent: Monday, July 28, 2025 3:36 PM
To: Tammy Weeks <tammy.weeks@ncmissions.org>; Richard Weeks <richard.weeks@ncmissions.org>; Russell Cate <russell.cate@tobm.org>
Subject: Fwd: Attached Image

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mr. Cate,

Thank you for all you do to serve the people of Black Mountain. You are a blessing to many.

We are thankful for all you have done to help us get the facility in order at 1114 Montreat Road in Black Mountain to serve people who were affected by Helene.

Attached is a letter asking your permission to put a travel trailer on the property while we complete these repairs and renovations.

Please let us know if you have any questions or we need to do anything more.

---------- Forwarded message ---------
From: <scan2email@ncbaptist.org>
Date: Mon, Jul 28, 2025 at 3:28 PM
Subject: Attached Image
To: Paul Langston <plangston@ncbaptist.org>

--
In His service,

Paul Langston
Missions Mobilization Consultant
Baptists On Mission
O: (919) 459-5611
Mobile: (919) 604-4778

Baptists On Mission exists to glorify God by involving churches and Christians in meeting human needs in Jesus' name.

Thank you for your generosity to the North Carolina Mission Offering which provides the entire regular budget of Baptists on Mission.

BAPTISTS ON MISSION

July 28, 2025

Russell Cate
304 Black Mountain Avenue
Black Mountain, NC 28711

Dear Mr. Cate,

We are very thankful for the service of the Town of Black Mountain. You are a blessing to the community as you serve so faithfully.

Baptists on Mission would is glad to be able to renovate the facility at 1114 Montreat Road in Black Mountain in response to Hurricane Helene. To complete repair and reconstruction or the building we would like to place a travel trailer temporarily on that property. We understand that this can be permitted according to Section 5.7.2 .A.2

We are delighted to be a part of the Black Mountain community as we use the facility at 1114 Montreat Road to mobilize volunteers to rehabilitate and reconstruct homes damaged or destroyed by Hurricane Helene.

In His service,

Paul Langston
Missions Mobilization Consultant
Baptists on Mission

Baptists On Mission
PO Box 1107, Cary, NC 27512

Main (919) 467-5100 ext 5596
Toll Free (800) 395 5102 ext 5596

www.baptistsonmission.org

Baptists On Mission (NC Baptist Men/NCBM) is an auxiliary to the Baptist State Convention of North Carolina. Thank you for your support of the North Carolina Missions Offering.

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:05 PM
To: Jennifer Tipton
Subject: FW: FYI, permission's been given to Baptists on Mission to have travel trailer during construction (BLG-25-0062)

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Friday, August 1, 2025 8:47 AM
To: Anne Phillip <anne.phillip@tobm.org>; Ronnie McAbee <ronnie.mcabee@tobm.org>; Rick Burton <rick.burton@tobm.org>; Jennifer Tipton <jennifer.tipton@tobm.org>
Subject: FYI, permission's been given to Baptists on Mission to have travel trailer during construction (BLG-25-0062)

Good morning,
FYI, permission's been given to Baptists on Mission to have travel trailer during construction at 1114 Montreat Rd. (BLG-25-0062).

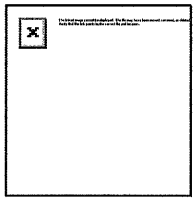
In govwell, I loaded a pdf of the approval email that I sent after discussing with Michelle. And I added this internal comment:

> Russell Cate added a comment "After consulting with Michelle, permission granted to project team t
> a camper trailer set up per manufacturer instructions, during the time of construction under this perr
> Reference: Section 5.7.2 (A) (2)."

Baptists on Mission team knows the trailer must be set up per manufacturer instructions and must not be placed in flood zone.

Thanks.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:08 PM
To: Jennifer Tipton
Subject: FW: Various concerns from Frank Cappelli, property owner abutting 1114 Montreat Road
Attachments: 1114 Montreat Road - Zoning Determination Letter 5.14.2025.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, December 2, 2025 9:09 AM
To: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: Various concerns from Frank Cappelli, property owner abutting 1114 Montreat Road

Hi Michelle,
I just spoke with Frank Cappelli by phone and he expressed concern about a number of things at the Baptists on Mission property at 1114 Montreat Rd (frankecappelli@gmail.com , 828-442-3908) Frank owns 1120 Montreat Rd., 12 Rushing Brook Ln., and 15 Rushing Brook Ln.

- More than one RV/camper being added to the parcel. One more that was added was brought in last week and placed very close to Flat Creek.
- Concerned about large pile of construction material.
- The property manager didn't honor his word about removing branches from the trees that are on Frank's property but leaning over the property line to some extent....did a more extensive tree cutting than described.
- Person living in the RV (project manager) is very close to the property line with Frank and Frank says Frank, his wife, and their four children are uncomfortable with this person regularly staring across the property line. Frank's unhappy with Town approving him being a resident in this RV. {In a second, I'll email my July 29 email to Paul Langston approving use of travel trailer for no more than 24 months during active construction.}
- Very concerned about no neighbors being informed, in any way, of this project, and the approvals.
- The trailers seem inappropriate and too much. The site is often a mess.
- The volunteers at the building are regular arrive in significant numbers, and all they're doing is upgrading the building, not doing community recovery work. They always knock on neighbors' doors and offer $100, which feels almost like a bribe.

- At least one of Frank's properties is a rental and he's not comfortable renting to a new tenant at this point due to the RV being occupied, all the disruptive activity, etc.
- Concerns are leading Frank to reach out to councilmembers to ask – even though he supports the recovery work of the organization – everything going on at 1114 Montreat Rd is OK with the Town.

Frank would like a dialogue (ideally in person) to discuss these concerns with Town representatives. I said I'd relay his concerns to you.

I assume we should chat about this so some sort of followup can be done with Frank. Thanks.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Tuesday, December 2, 2025 8:32 AM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: information about 1114 Montreat Road

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Russell,

I would like to speak with you about this if you have a moment to speak on the phone. Is that doable?

Thanks,
Frank
828.442.3908

> On Dec 2, 2025, at 8:26 AM, Russell Cate <russell.cate@tobm.org> wrote:
>
> Good morning Frank,
> I understand you called about 1114 Montreat Road. The attached zoning determination letter should provide useful information.
> Please let me know if you have any questions.
> Thank you.
>
> **Russell B. Cate, CZO**
> Planner, Zoning Administrator
> 828-419-9373
> Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

<1114 Montreat Road - Zoning Determination Letter 5.14.2025.pdf>

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:08 PM
To: Jennifer Tipton
Subject: FW: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone
Attachments: 1114 Montreat Road - Zoning Determination Letter 5.14.2025.pdf; FW: travel trailer use during the time you have work underway under your issued building permit is OK; Paul Langston letter re a tempoary travel trailer 7.28.25.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, December 3, 2025 10:30 AM
To: Anne Phillip <anne.phillip@tobm.org>; Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Jennifer Tipton <jennifer.tipton@tobm.org>; Ronnie McAbee <ronnie.mcabee@tobm.org>
Subject: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone

Good morning Anne and Rick,
I've discussed the concerns expressed by Frank Cappelli (we spoke via phone; see the item in Frank's email I've highlighted below) with Michelle. Michelle and I are going to speak with Frank regarding his use concerns.

Regarding Frank's flood zone and travel trailer concerns, Michelle would like staff to investigate. I thought the three of us should go – does that sound good? If so, what day/time is good for you? The only time that's not good for me this week is Friday 10:30 – 1:30 (lunch + leave).

The context of 1114 Montreat is:

- zoning determination letter (attached)
- email to Paul Langston approving [per Sec. 5.7.2 (A) (2)] what he described as "a travel trailer on the property while we complete these repairs and renovations," as well as Paul's letter (attached)
- Permits MEC-25-0096, FRE-25-0004, FRE-25-0002, BLG-25-0062

Rick, I assume it's appropriate for you to check that the travel trailers are proper distance (fire) from property line and each other; are set up per manufacturer instructions.

Note that 1114 Montreat is the first parcel approved for the use listed in Sec. 5.7.2 (A) (1). FYI, this is the edit I'm suggesting be considered for the UDO:

> LUC: Sec. 5.7.2 (A):
>
> 1. When fire, flood, other natural catastrophe, or a declared federal, state, disaster, makes an existing dwelling uninhabitable, as emergency housing not to exceed one (1) year.
>
> a. Upon submission of documentation from an aid agency, a unit o or a North Carolina-licensed contractor, that the repair or reconstru dwelling will take more than one (1) year, the Zoning Administrator the time period for up to ~~two (2)~~ **four (4)** additional years, with exte required at each one-year interval and with approval contingent on submission of documentation from an aid agency, a unit of governr North Carolina-licensed contractor that the repair or reconstruction dwelling is ongoing and not complete.
>
> A specific context for this change is *Zoning Determination Letter for 1114* . dated 5/14/2025 (Baptists On Mission and North Carolina Baptist Men)

Thank you both.

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Wednesday, December 3, 2025 8:50 AM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: can you come in to discuss with Michelle and I the afternoon of Mon., Dec. 8, or on Tuesday the 9th?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Russell -

I am available anytime on Dec 8th and 9th. I would prefer to have call instead of coming in person if thats ok.

In the meantime, will you all make sure to have them remove the trailers in the floodzone as we already know that shouldnt be there?

Thanks,
Frank

On Wed, Dec 3, 2025 at 8:25 AM Russell Cate <russell.cate@tobm.org> wrote:

> Good morning Frank,
>
> Can you come in to discuss your concerns with Michelle Kennedy and I the afternoon of Monday, Dec. 8, or any time between 9:00 and 4:00 on Tuesday the 9th?
>
> Our office is a white office trailer located at 304 Black Mountain Ave.

Thank you.

Russell B. Cate, CZO

Planner, Zoning Administrator

828-419-9373

Russell.cate@tobm.org

Town of Black Mountain, NC

304 Black Mountain Ave. | Black Mountain NC 28711

www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:08 PM
To: Jennifer Tipton
Subject: FW: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, December 3, 2025 4:05 PM
To: Anne Phillip <anne.phillip@tobm.org>; Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Jennifer Tipton <jennifer.tipton@tobm.org>; Ronnie McAbee <ronnie.mcabee@tobm.org>
Subject: RE: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone

Thank you, Anne and Rick. (I spoke with Rick before he headed out to check the site.)

From: Anne Phillip <anne.phillip@tobm.org>
Sent: Wednesday, December 3, 2025 2:03 PM
To: Russell Cate <russell.cate@tobm.org>; Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Jennifer Tipton <jennifer.tipton@tobm.org>; Ronnie McAbee <ronnie.mcabee@tobm.org>
Subject: Re: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone

Hi Russell,

I can go investigate whether there is a trailer in the Special Flood Hazard Area. I see in the email with Baptists on Mission they state that it will not be located in the SFHA.

I have attached the FRIS screenshot showing the SFHA (blue area).

If you would like to go with me to look into a separate concern, I think I will most likely be able to go tomorrow afternoon.

Thank you,
Anne

Anne Phillip, CFM

Stormwater Technician and Floodplain Administrator

828-419-9374

Anne.Phillip@tobm.org

Town of Black Mountain, NC

304 Black Mountain Ave. | Black Mountain NC 28711

www.townofblackmountain.org

Helene Resources: Black Mountain Strong
Hazard Mitigation Grant Program: About Hazard Mitigation | NC DPS
Emergency Watershed Protection Program: County Center - Helene Recovery: USDA Emergency Watershed Protection Program Offers Support for Damaged Infrastructure
Renew NC Single-Family Housing Program : Hurricane Helene Recovery | NC Single-Family Housing Program | Renew NC

From: Russell Cate <russell.cate@tobm.org>
Sent: Wednesday, December 3, 2025 10:29 AM
To: Anne Phillip <anne.phillip@tobm.org>; Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Jennifer Tipton <jennifer.tipton@tobm.org>; Ronnie McAbee <ronnie.mcabee@tobm.org>
Subject: neighbor concerns about 1114 Montreat Rd, including travel trailers in flood zone

Good morning Anne and Rick,
I've discussed the concerns expressed by Frank Cappelli (we spoke via phone; see the item in Frank's email I've highlighted below) with Michelle. Michelle and I are going to speak with Frank regarding his use concerns.

Regarding Frank's flood zone and travel trailer concerns, Michelle would like staff to investigate. I thought the three of us should go – does that sound good? If so, what day/time is good for you? The only time that's not good for me this week is Friday 10:30 – 1:30 (lunch + leave).

The context of 1114 Montreat is:

- zoning determination letter (attached)

- email to Paul Langston approving [per Sec. 5.7.2 (A) (2)] what he described as "a travel trailer on the property while we complete these repairs and renovations," as well as Paul's letter (attached)
- Permits MEC-25-0096, FRE-25-0004, FRE-25-0002, BLG-25-0062

Rick, I assume it's appropriate for you to check that the travel trailers are proper distance (fire) from property line and each other; are set up per manufacturer instructions.

Note that 1114 Montreat is the first parcel approved for the use listed in Sec. 5.7.2 (A) (1). FYI, this is the edit I'm suggesting be considered for the UDO:

> LUC: Sec. 5.7.2 (A):
>
> 1. When fire, flood, other natural catastrophe, or a declared federal, state, disaster, makes an existing dwelling uninhabitable, as emergency housing not to exceed one (1) year.
>
> a. Upon submission of documentation from an aid agency, a unit o or a North Carolina-licensed contractor, that the repair or reconstru dwelling will take more than one (1) year, the Zoning Administrator the time period for up to ~~two (2)~~ **four (4)** additional years, with exte required at each one-year interval and with approval contingent on submission of documentation from an aid agency, a unit of governr North Carolina-licensed contractor that the repair or reconstruction dwelling is ongoing and not complete.
>
> A specific context for this change is *Zoning Determination Letter for 1114* . dated 5/14/2025 (Baptists On Mission and North Carolina Baptist Men)

Thank you both.

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Wednesday, December 3, 2025 8:50 AM
To: Russell Cate <russell.cate@tobm.org>
Subject: Re: can you come in to discuss with Michelle and I the afternoon of Mon., Dec. 8, or on Tuesday the 9th?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Russell -

I am available anytime on Dec 8th and 9th. I would prefer to have call instead of coming in person if thats ok.

In the meantime, will you all make sure to have them remove the trailers in the floodzone as we already know that shouldnt be there?

Thanks,
Frank

On Wed, Dec 3, 2025 at 8:25 AM Russell Cate <russell.cate@tobm.org> wrote:

Good morning Frank,
Can you come in to discuss your concerns with Michelle Kennedy and I the afternoon of Monday, Dec. 8, or any time between 9:00 and 4:00 on Tuesday the 9th?
Our office is a white office trailer located at 304 Black Mountain Ave.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:09 PM
To: Jennifer Tipton
Subject: FW: Trailers and privacy issues at 1114 Montreat

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

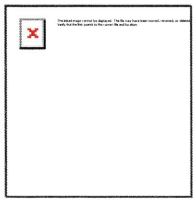
Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Thursday, December 4, 2025 8:05 AM
To: Rick Burton <rick.burton@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Anne Phillip <anne.phillip@tobm.org>
Subject: RE: Trailers and privacy issues at 1114 Montreat

Thank you so much, Rick. In a minute, I'll be scheduling the phone conversation Michelle and I are going to have with Frank Cappelli (at his request) regarding use questions he has. I think the call will be Monday afternoon.
I forgot to note earlier that Franks told me he owns the following: 1120 Montreat Rd., 12 Rushing Brook Ln., and 15 Rushing Brook Ln.

Thanks again, Rick.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Rick Burton <rick.burton@tobm.org>
Sent: Wednesday, December 3, 2025 5:29 PM

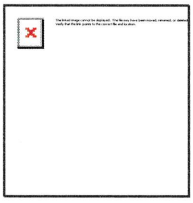
To: Russell Cate <russell.cate@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; Anne Phillip <anne.phillip@tobm.org>
Subject: Trailers and privacy issues at 1114 Montreat

I visited the site at 1114 Montreat and found that the motor home that the superintendent was staying in was not anywhere near the setback requirements and on the other side of the property from the gentleman filing the complaint. I also noticed another camper trailer being stored on the property and it was parked in the flood plain. There was no one living in it. I suggested that the camper be moved to the pad where it will be used as soon as possible. The superintendent told me that the dispute started after one of the subs, a block mason was caught glaring at the complainant's wife. The sub was seriously reprimanded. I am not sure he was allowed to stay on site.

The situation elevated from that point. Baptist on Mission had promised the neighbor a fence and the fence has not been constructed yet. It will be constructed when the engineers get the plans back. I do not believe the fence is not required by code and does not appear on the drawings that I have seen.

There are other factors and I can talk to you about them later.

Rick Burton
rick.burton@tobm.org
828-419-9341
828-767-3667



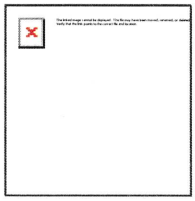
Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 3:49 PM
To: Michelle Kennedy
Cc: Ronnie McAbee; Rick Burton; Anne Phillip; Jennifer Tipton
Subject: resending because I forgot to CC Jennifer today's in-person dialogue with Frank Cappelli at his home (resending because I forgot to CC Jennifer)

Good afternoon Michelle,
As a piece of documentation of today's follow up with Frank Cappelli on the heels of the voicemail messages he left for me today about noise and vibration, Ronnie and I spoke with him at his home. Frank expressed thanks to Town staff for their responsiveness to his concerns.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:02 PM
To: Jennifer Tipton
Subject: FW: [External]

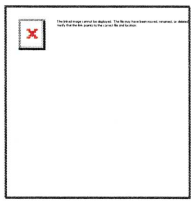
Russell B. Cate, CZO
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828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, May 14, 2025 12:29 PM
To: kristin.moyle@ncdps.gov
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>; rafael.baptista@buncombenc.gov; burnett.walz@buncombenc.gov; Paul Langston <plangston@ncbaptist.org>; nathan.pennington@buncombenc.gov
Subject: FW: [External]

Good afternoon Kristin,
I'm going to send you an email separately explaining the straightforward sentence or two that I'm hoping you can email to me in the context of Baptists on Mission's project at 1114 Montreat Road here in Black Mountain. In this email, I've included everyone involved in the thread just so all are aware of my follow-up.
Thank you, Kristin.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Nathan L. Pennington <Nathan.Pennington@buncombenc.gov>
Sent: Wednesday, May 14, 2025 11:46:01 AM

To: Rafael Baptista <Rafael.Baptista@buncombenc.gov>; Moyle, Kristin (NCEM) <kristin.moyle@ncdps.gov>; Burnett Walz <Burnett.Walz@buncombenc.gov>; Michelle Kennedy <michelle.kennedy@tobm.org>
Cc: Paul Langston <plangston@ncbaptist.org>
Subject: RE: [External]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Michelle,

See below.

Thanks,

Nate

Nathan L. Pennington, CFM
Planning Director
Planning and Development
(828) 250-4856
35 Woodfin St, Asheville, NC 28801
Respect. Integrity. Collaboration. Honesty. Equity.
Facebook** • **X** • **Threads** • **Instagram** • **YouTube** • **LinkedIn

From: Rafael Baptista <Rafael.Baptista@buncombenc.gov>
Sent: Wednesday, May 14, 2025 11:40 AM
To: Moyle, Kristin (NCEM) <kristin.moyle@ncdps.gov>; Burnett Walz <Burnett.Walz@buncombenc.gov>; Nathan L. Pennington <Nathan.Pennington@buncombenc.gov>
Cc: Paul Langston <plangston@ncbaptist.org>
Subject: Re: [External]

Nate,

Can you connect Kristin with the planning director in Black Mountain?

Thanks,
Rafael

Get Outlook for iOS

From: Moyle, Kristin (NCEM) <kristin.moyle@ncdps.gov>
Sent: Wednesday, May 14, 2025 11:35:57 AM
To: Rafael Baptista <Rafael.Baptista@buncombenc.gov>; Burnett Walz <Burnett.Walz@buncombenc.gov>
Cc: Paul Langston <plangston@ncbaptist.org>
Subject: FW: [External]

Hey there,
Is there a contact in Black Mountain I can reach out to asap? Would like to help facilitate the communication between the City of BM and the Baptist on Mission. They are an amazing group and have reconstructed homes for (my past) Tropical Storm Fred efforts here in the mountains.
Thank you!
-Kristin

Kristin Moyle
Private Road and Bridge Program
NC Department of Public Safety
Division of Emergency Management
(C) 919-608-6915
kristin.moyle@ncdps.gov

From: Paul Langston <plangston@ncbaptist.org>
Sent: Wednesday, May 14, 2025 11:28 AM
To: Moyle, Kristin (NCEM) <kristin.moyle@ncdps.gov>
Subject: [External]

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello Kristin,

We are renovating a facility in Black Mountain that will eventually be able to house and provide meals for 100 people who will work in the area to repair and reconstruct homes damaged by Helene. Since the facility we purchased was vacant for more than 2 years it requires a whole new permitting process.

The use we intend for the facility doesn't exactly fit the different code categories so the City of Black Mountain asked us to get a letter stating that we are working in partnership with a state government agency. Since we are using funds from the General Assembly, OSBM, and the Governor would you or someone in your office be able to write a short letter to that effect? They said that if we have that letter we can get the permit to start the renovations in an hour!

If you can do this, or someone in the office can, would you email it to me? Joe Stanton said that he would, but he is traveling today.
--
In His service,

Paul Langston
Missions Mobilization Consultant
Baptists On Mission
O: (919) 459-5611
Mobile: (919) 604-4778

BAPTISTS ON MISSION

Baptists On Mission exists to glorify God by involving churches and Christians in meeting human needs in Jesus' name.

Thank you for your generosity to the North Carolina Mission Offering which provides the entire regular budget of Baptists on Mission.



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Attention: Some Buncombe County emails now use dot-Gov (.Gov) addresses as we migrate to a new website.

Sign up to receive emergency texts directly from Buncombe County for breaking health and safety news. Text **BCALERT** on your smart phone to **99411** to receive alerts on important information such as floods, communicable disease, county office closings, and relevant traffic safety notifications OR visit **buncombeready.org**

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:02 PM
To: Jennifer Tipton
Subject: FW: can you please send an email indicating that Baptists on Mission has a connection to a unit of state government?

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
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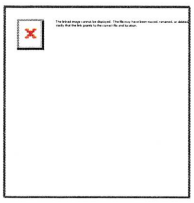
From: Russell Cate
Sent: Wednesday, May 14, 2025 12:39 PM
To: kristin.moyle@ncdps.gov
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: can you please send an email indicating that Baptists on Mission has a connection to a unit of state government?

Hello again Kristin,
To sign off on Baptists on Mission intended use at 1114 Montreat Road (what they call a 'rebuild center' and that would fall in the Town's use category of Emergency Housing), I need something stating that Baptists on Mission has a connection to a unit of state government. Can you send me such an email? We don't need any detail; we just need something indicating that Baptists on Mission operates with some collaboration with, or connection to, a unit of state government. That's it.

(FYI, our Emergency Housing use category covers the establishment of a facility that houses people volunteering with or working for a government-connected disaster-assistance organization.)

Please call me at 828-419-9373 or email me at Russell.cate@tobm.org if you have any questions, and thank you in advance.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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Subject: RE: [External]

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Hi Michelle,

See below.

Thanks,

Nate

Nathan L. Pennington, CFM
Planning Director
Planning and Development
(828) 250-4856
35 Woodfin St, Asheville, NC 28801
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Cc: Paul Langston <plangston@ncbaptist.org>
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To: Rafael Baptista <Rafael.Baptista@buncombenc.gov>; Burnett Walz <Burnett.Walz@buncombenc.gov>
Cc: Paul Langston <plangston@ncbaptist.org>
Subject: FW: [External]

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Thank you!
-Kristin

Kristin Moyle
Private Road and Bridge Program
NC Department of Public Safety
Division of Emergency Management
(C) 919-608-6915
kristin.moyle@ncdps.gov

From: Paul Langston <plangston@ncbaptist.org>
Sent: Wednesday, May 14, 2025 11:28 AM
To: Moyle, Kristin (NCEM) <kristin.moyle@ncdps.gov>
Subject: [External]

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someone in your office be able to write a short letter to that effect? They said that if we have that letter we can get the permit to start the renovations in an hour!

If you can do this, or someone in the office can, would you email it to me? Joe Stanton said that he would, but he is traveling today.

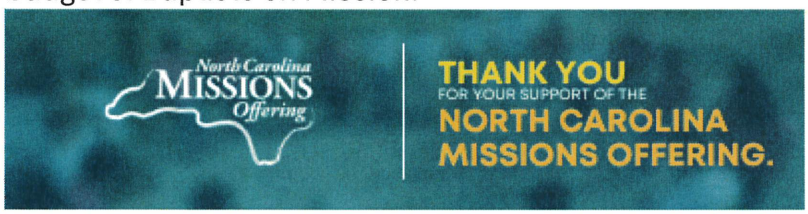
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In His service,

Paul Langston
Missions Mobilization Consultant
Baptists On Mission
O: (919) 459-5611
Mobile: (919) 604-4778

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Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:03 PM
To: Jennifer Tipton
Subject: FW: the use Emergency Housing
Attachments: Sec. 5.18 - Emergency Housing.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, May 28, 2025 10:27 AM
To: desiree.kennedy@nc.gov
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: the use Emergency Housing

Good morning Desiree,
I'm happy to provide information about the fairly-new use in our Table of Uses by Zoning District: ***Emergency Housing***. The use was adopted via text amendment by Town Council on January 13 of this year. One of the types of arrangements permitted in the use ***Emergency Housing*** is for those "assisting with disaster recovery efforts through a unit of government, agency, nonprofit, or company." Such use is a temporary use, allowed for up to two years, with the permit holder allowed to request staff to approve a one-time extension of up to one year.

1114 Montreat Road was purchased by North Carolina Baptist Men in early 2025. Many years ago, the structure on the property had been a nursing home, and Baptists On Mission / North Carolina Baptist Men have begun rehabilitation activities to host volunteer groups for overnight stays ranging from one to 14 days. Baptists On Mission / North Carolina Baptist Men has received approval for the use ***Emergency Housing*** in the context of assisting with disaster recovery efforts through a unit of government. The relevant unit of government is the NC Department of Public Safety, with which Baptists On Mission / North Carolina Baptist Men collaborates.

Section 5.18 (Emergency Housing) is attached. Also, this is the definition in Section 1.2.3 (Definitions) of the Land Use Code:

Emergency Housing: The use of travel trailers, manufactured housing, building-code compliant s habitation, or other FEMA-approved shelters as a temporary use related to declared federal, state, or disaster, for people:

1. Experiencing homelessness or inadequate shelter resulting from disaster-related damages; o
2. Assisting with disaster recovery efforts through a unit of government, agency, nonprofit

(definition add

Please let me know if you have any questions.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Section 5.18 EMERGENCY HOUSING *(section added 1-13-2025)*

5.18.1 Purpose *(section added 1-13-2025)*

To permit the use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to a declared federal, state, or local disaster.

5.18.2 General Provisions *(section added 1-13-2025)*

A. Eligibility. Applicant must provide proof they:

1. Own, occupy or occupied, as their primary residence, a structure damaged or made inaccessible by the declared disaster; or,

2. Are assisting with disaster recovery efforts through a unit of government, agency, nonprofit, or company.

B. Siting

1. Emergency housing may only be on a site other than a damaged or inaccessible home if said housing is operated by FEMA or other federal agency, by a unit of state government, or a unit of local government.

2. Debris Removal. Emergency housing shall not obstruct or prevent recovery and debris removal operations.

3. Floodways and Floodplains. Emergency housing shall be prohibited within regulated floodways and floodplains.

4. Landslide and Heavily Damaged Flood Areas: Emergency housing applicants located within landslide or heavily damaged flood areas is strongly recommended to confer with a geotechnical engineer to evaluate site stability prior to placement of the emergency housing on a site, and during reconstruction and redevelopment of a site.

C. Temporary Use. Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year.

D. Number of Units. No more than one (1) emergency housing unit may be placed on an individual lot, except where the site is operated by FEMA or other federal agency, by a unit of state government, or a unit of local government.

E. Utilities. Emergency housing shall be immediately connected to an approved public or private wastewater system, potable water source, and public electrical service, except where the unit is a travel trailer in which case it shall be connected within the following time limits:

   a. Electrical Service and Potable Water: Within three (3) months from the date of placement.

   b. Wastewater: Within six (6) months from the date of placement, with the option of the Zoning Administrator extending for an additional six (6) months with proof of contract to remove waste.

F. Addressing. Emergency housing shall meet the E-911 addressing requirements which may differ dependent upon emergency housing unit type.

G. Setbacks. Setbacks shall apply to emergency housing regardless of type.

H. Spacing. Emergency housing units shall be separated from each other by a distance of at least ten (10) feet.

I. Access. Where three (3) or more emergency housing units are placed on a single lot, those units shall be accessed by a vehicular drive aisle on at least one side of the trailer, which is a minimum of 20 feet in

widths for two-direction traffic, or a minimum of 12 feet in width for single-direction traffic, or a minimum of 30 feet for two-direction traffic that contains on-street parking. No parking shall be allowed within the vehicular drive aisle. A site plan that shows uniformity with this access requirement must be submitted.

J. Parking. The minimum required parking for emergency housing shall be one (1) space per emergency housing temporary dwelling unit. The Zoning Administrator may reduce the required parking if the applicant can demonstrate that less than one space per temporary dwelling unit is sufficient. Parking spaces will be of an all-weather surface.

K. Waste Management. The property owner or operator of group sites shall provide capacity for a weekly accumulation of solid waste and recycling on site through the provision of dumpsters or acceptable containers. Waste containers must be serviced at least once a week unless the group site has been vacant for the entirety of the week. Dumpsters shall not be located within any required setbacks.

L. Steep Slope. The provisions of the Erosion Prevention and Slope Protection Ordinance apply to emergency housing.

M. Building Permit. Electrical, plumbing, driveway, and/or utility permits may be required for emergency housing.

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:04 PM
To: Jennifer Tipton
Subject: FW: also: Sec. 5.7 was amended to broaden disaster-related temporary housing on a lot where someone is recovering
Attachments: Sec. 5.7 - Manuf Homes on Indiv Lots and Emerg Housing.pdf

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Wednesday, May 28, 2025 10:47 AM
To: Kennedy, Desiree <desiree.kennedy@nc.gov>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: also: Sec. 5.7 was amended to broaden disaster-related temporary housing on a lot where someone is recovering

Sure thing.
I forgot to note that Council also amended Section 5.7: it had been "Manufactured Homes on Individual Lots" but is now "Manufactured Homes on Individual Lots and Emergency Housing." The amendment broadens the extent to which a person who lives on (or was displaced from) a dwelling can have a temporary, recovery-related housing unit on their lot. The housing unit can be a "travel trailer, manufactured housing, building-code compliant structure, or other FEMA-approved shelter."

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
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From: Kennedy, Desiree <desiree.kennedy@nc.gov>
Sent: Wednesday, May 28, 2025 10:30 AM
To: Russell Cate <russell.cate@tobm.org>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: RE: [External] the use Emergency Housing

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Thank you! This is very helpful.

OFFICE OF GOVERNOR
N★C JOSH STEIN

Desiree Kennedy
Program Officer
Governor's Recovery Office for Western North Carolina
919-819-7523
desiree.kennedy@nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Russell Cate <russell.cate@tobm.org>
Sent: Wednesday, May 28, 2025 10:27 AM
To: Kennedy, Desiree <desiree.kennedy@nc.gov>
Cc: Michelle Kennedy <michelle.kennedy@tobm.org>
Subject: [External] the use Emergency Housing

You don't often get email from russell.cate@tobm.org. Learn why this is important

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Good morning Desiree,
I'm happy to provide information about the fairly-new use in our Table of Uses by Zoning District: ***Emergency Housing***. The use was adopted via text amendment by Town Council on January 13 of this year. One of the types of arrangements permitted in the use ***Emergency Housing*** is for those "assisting with disaster recovery efforts through a unit of government, agency, nonprofit, or company." Such use is a temporary use, allowed for up to two years, with the permit holder allowed to request staff to approve a one-time extension of up to one year.

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>
> 1. Experiencing homelessness or inadequate shelter resulting from disaster-related damages; o
> 2. Assisting with disaster recovery efforts through a unit of government, agency, nonprofit
>
> *(definition add*

Please let me know if you have any questions.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
160 Midland Ave. | Black Mountain NC 28711
www.townofblackmountain.org

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:06 PM
To: Jennifer Tipton
Subject: FW: NC Baptist Men Project 1114 Montreat Road Black Mountain

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Friday, September 19, 2025 4:40 PM
To: 'brent@mossmarlow.com' <brent@mossmarlow.com>
Cc: 'cbenton@mossmarlow.com' <cbenton@mossmarlow.com>
Subject: FW: NC Baptist Men Project 1114 Montreat Road Black Mountain

Good afternoon Brent,
Here's the information you need:

4.5.5 Use and location of dumpsters.

Dumpsters are allowed in all districts in accordance with the following standards:

A. All dumpsters must be maintained in good working condition and their exterior shall be k of debris, accumulations or effluent.

B. No dumpster shall contain hazardous material unless it is designed to contain such mater and that such containment is approved by the environmental protection agency.

C. Dumpsters which contain oil and grease shall not leak.

D. Dumpsters must be screened from the public right-of-way and from abutting residential boundaries. Screening shall be with an opaque wall or fence that is at least one foot high dumpster itself. Vegetative buffers of evergreen of sufficient height and density to meet screening requirement and which are a minimum of ten feet in width, may be permitted structural screen upon approval of the zoning administrator.

E. Reserved

F. Screening provided to meet town requirements must be maintained in good condition continuous basis.

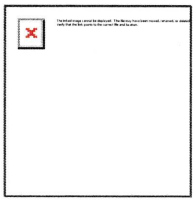
G. Reserved.

Regarding installation of a propane tank or tanks, I assume that would be covered by the State Building Code, so please reach out to Rick Burton, Building Inspector: rick.burton@tobm.org, 828-419-9341. Also, the Town's Fire Marshal is Doug Morrow: doug.morrow@tobm.org, 828-419-9333

I hope this helps.

Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
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From: Brent Beyor <Brent@mossmarlow.com>
Sent: Friday, September 19, 2025 3:20 PM
To: Jennifer Tipton <jennifer.tipton@tobm.org>
Cc: Craig Benton <cbenton@mossmarlow.com>
Subject: NC Baptist Men Project 1114 Montreat Road Black Mountain

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Jennifer,

Good afternoon. Hope you are doing well. I'm not sure if you can answer the following or not.. If not, could you direct me to the appropriate person? Maybe I need to talk to Rick, Building inspector?

The Mission folks are inquiring about a permanent dumpster. It would likely be an 8 yard dumpster. What are the property line setbacks, rules, ordinances for this? Does it need to be on a pad? A concrete or asphalt approach? Enclosed by a fence or structure (i.e. block wall), can be left open around it?

Also- we'll need to install a propane tank (or two) for the gas equipment, insta-hot water heaters, etc. Any setback rules or regulations? Does it need to be placed on a pad?

Thank you,

I appreciate the help,

Have a great day!

Brent P. Beyor
Project Manager
Safety Coordinator
603-770-7247 (cell)

MOSS-MARLOW
BUILDING CO, INC

3039 US Highway 70 SW
Hickory, NC 28603

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 1:07 PM
To: Jennifer Tipton
Subject: FW: information about 1114 Montreat Road
Attachments: 1114 Montreat Road - Zoning Determination Letter 5.14.2025.pdf

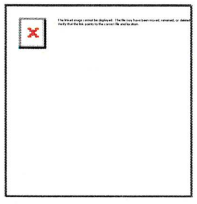
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Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org

Town of Black Mountain, NC
304 Black Mountain Ave. | Black Mountain NC 28711
www.townofblackmountain.org

From: Russell Cate
Sent: Tuesday, December 2, 2025 8:26 AM
To: frankecappelli@gmail.com
Subject: information about 1114 Montreat Road

Good morning Frank,
I understand you called about 1114 Montreat Road. The attached zoning determination letter should provide useful information.
Please let me know if you have any questions.
Thank you.

Russell B. Cate, CZO
Planner, Zoning Administrator
828-419-9373
Russell.cate@tobm.org



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TOWN OF BLACK MOUNTAIN

160 Midland Avenue • Black Mountain, North Carolina 28711
Phone (828) 419-9300 • Fax (828) 419-7210 • TDD 800-735-2962
www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member Doug Hay
Council Member Pam King
Council Member Ryan Stone

Town Manager
Josh M. Harrold

Assistant Town Manager
Jessica Trotman

Town Clerk
Wesley M. Barker

May 14, 2025

North Carolina Baptist Men
PO Box 1107
Cary, NC 27512-1107

RE: Zoning Determination for 1114 Montreat Road
Buncombe County Property ID Number (PIN): 071041779500000
Zoning District: Urban Residential (UR-8)

Baptists On Mission and North Carolina Baptist Men:

At the preliminary tech review meeting held on May 8, 2025, I offered to provide a zoning determination letter for 1114 Montreat Road. The property is in the Urban Residential (UR-8) zoning district.

In the context of the late September 2024 emergency declaration, you've stated the project goal as hosting volunteers and volunteer groups for overnight stays ranging from one to 14 days, related to a declared federal, state, or local disaster. This corresponds with the use ***Emergency Housing*** [Section 5.18 (Emergency Housing) of Chapter 5].

We've received communication from the NC Department of Public Safety (DPS) stating that Baptists On Mission / North Carolina Baptist Men operates in collaboration with DPS, which meets the requirement stated in Section 5.18.2 (A) (2).

As a reminder, Section 5.18.1 states that the use purpose is "to permit the use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to a declared federal, state, or local disaster." And

continued

Section 5.18.2 (C) states: "Temporary Use. Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year."

Should you have any questions, please feel free to contact me at 818-419-9373 or Russell.cate@tobm.org.

Sincerely,

Russell Cate, CZO

Planner & Zoning Administrator

CC: Michelle Kennedy, Planning Director

Jennifer Tipton

From: Russell Cate
Sent: Monday, December 8, 2025 8:02 AM
To: Michelle Kennedy; Jennifer Tipton
Subject: FW: Formal Code Enforcement Complaints – 1114 Montreat Road
Attachments: Code Complaints.pdf

FYI

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Friday, December 5, 2025 5:07 PM
To: Town Clerk <town.clerk@tobm.org>; Russell Cate <russell.cate@tobm.org>; planning@tobm.org
Subject: Formal Code Enforcement Complaints – 1114 Montreat Road

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Frank Cappelli, and I am an adjoining property owner to 1114 Montreat Road. I own the properties at 1120 Montreat Road, 12 Rushing Brook Lane, and 15 Rushing Brook Lane, all of which directly border 1114 Montreat.

Today I submitted multiple code enforcement complaints through the Town's online system regarding ongoing activities at 1114 Montreat Road. Due to the character limits on the online form, I am following up by email to provide the full details and context of my concerns.

In summary, my complaints address:

- **RVs/travel trailers being used as dwellings** (overnight lodging with apparent power hookups) that do not appear to be permitted uses in the UR-8 district or to qualify as Emergency Housing;
- **Significant construction and additions** occurring with no visible building, zoning, or floodplain permits posted;
- **Floodplain and creek buffer concerns**, including storage of construction materials and equipment near the creek, concrete mixing adjacent to the water, and runoff into the creek during storms;
- **Noise and nuisance impacts** beginning daily at 7:00 a.m. consistent with a large construction site rather than a residential use;
- **Traffic and parking issues**, with numerous vehicles parked along the property line, in the grass, and near the creek;
- **Trespass and safety issues**, including multiple incidents where volunteers entered our yard uninvited and approached my family;
- **Removal of vegetation and loss of buffer** along the property line with no replacement screening or fencing; and
- **Visual blight and potential sanitation concerns** associated with the current use and occupancy of the building and RVs.

For your convenience, I have attached my full written complaint, which organizes these issues in detail. I also have photos and videos documenting these conditions and will gladly provide them upon request or at an inspection.

As an immediately adjoining property owner, my family and tenants are directly affected by these activities on a daily basis. I respectfully request that the Town:

1. Inspect the property for zoning, building, floodplain, and sanitation compliance;
2. Confirm whether appropriate permits and approvals have been issued for the current construction, grading, parking expansion, RV use, and occupancy; and
3. Take appropriate enforcement action to correct any violations identified, including restoration of adequate buffering along the shared property line.

Please confirm receipt of this email and let me know when an inspection has been or will be conducted. I appreciate your time and your attention to this matter.

Sincerely,
Frank Cappelli
1120 Montreat Road
Black Mountain, NC 28711
Email: frankecappelli@gmail.com

Phone: 828-442-3908

Property: 1114 Montreat Road, Black Mountain, NC
Complainant: Frank Cappelli

I am reporting multiple potential zoning, construction, and environmental violations occurring at 1114 Montreat Road.

Based on direct daily observation as an adjoining property owner, the following conditions appear to be out of compliance with Black Mountain's zoning ordinance, noise and nuisance standards, building codes, and floodplain regulations.

1. RVs / Trailers Being Used as Dwellings (Possibly Unpermitted)

There are currently two RVs/travel trailers stationed on the property at 1114 Montreat Road. Based on direct observation as an adjoining property owner:

- At least one RV is being used for overnight lodging, with lights on at night and people occupying it.
- Both RVs appear to be connected to electrical power from the main building or temporary utility hookups.
- These RVs are present every day and are not being moved.

To my knowledge, the Town has not issued any permit authorizing the use of RVs as dwellings on this property. I understand that RVs cannot be legally used for sleeping or residential purposes in the UR-8 zoning district unless they are part of a formally approved and properly permitted Emergency Housing use, which has strict criteria.

From everything I have observed, these RVs are not housing displaced residents and are not functioning as temporary emergency housing tied to an active declared disaster. Instead, the RVs appear to be used to house workers or volunteers during construction and renovation activities on the property.

If the RVs are being used for worker lodging, that is also not a permitted use.

North Carolina building and zoning laws do not allow construction workers or volunteers to live on-site in RVs or trailers without a specific Temporary Use Permit — and no such permit appears to have been issued or posted.

For these reasons, the RVs appear to constitute:

1. Illegal dwelling units,
2. Unpermitted residential occupancy,
3. A prohibited use in a residential zoning district, and
4. A violation of the Town's zoning, building, and life-safety standards.

I respectfully request that Code Enforcement investigate the occupancy, hookup, and use of these RVs and determine whether they comply with zoning, building code, and the Emergency Housing ordinance.

2. Significant Construction and Additions With No Visible Permits

Multiple major construction activities have occurred with no posted permits, including:

- A large addition being built onto the back of the kitchen building.
- Frequent roof activity (workers on the roof).
- Substantial grading, land disturbance, and creation of a large new parking area—appearing to be located in the floodplain.
- A concrete mixing station set up on the ground, very close to the creek.
- Storage of large quantities of construction materials (lumber, blocks, debris) on site.
- New utility pathways (possible electrical lines to RVs).

These appear to constitute a significant change of use and structural expansion, potentially without inspections, building permits, zoning approval, or floodplain permits.

3. Floodplain / Creek Buffer Violations

The following are occurring immediately adjacent to the creek at the rear of the property:

- Large piles of construction materials, lumber, debris, and equipment
- A concrete mixing station set up right beside the creek
- Vehicles and trailers parked in the grass near the creek
- Disturbed soil and runoff that drains directly into the creek

Any unanchored materials, fill, or new structures in a flood-prone area require floodplain permits and may not be allowed. These items present serious environmental and safety hazards, particularly because debris could wash downstream in a storm.

4. Noise and Nuisance Activity in a Residential District

Daily activity begins at 7:00 AM sharp, including:

- Loud machinery
- Construction noise
- Shouting and group activity

- Vans and buses arriving and idling
- General constant worksite noise

This level of noise and activity is not typical or appropriate for a residential neighborhood and appears to violate nuisance standards.

5. Traffic, Parking, and Safety Concerns

Daily observations show:

- 10–15 vehicles per day associated with the operation.
- Vehicles parked along the property line, in the grass, and near the creek.
- Construction vehicles and volunteer vans continuously entering and exiting the driveway.

This creates traffic impacts, safety hazards, and further damage to the creek buffer.

6. Trespass / Safety Issues With Volunteers Entering Neighboring Properties

There have been at least three separate incidents where volunteers from 1114 Montreat:

- Entered private property uninvited,
- Approached the complainant's wife,
- Walked near the yard where children play,
- Explained they were "given gift cards to distribute" and were looking for people in the community.

Residents have no knowledge of who these volunteers are, how they are vetted, or why they are approaching adjoining homes.

This raises serious safety and privacy concerns.

Workers also remain at the property line during breaks, often watching or observing neighboring yards.

7. Clear Cutting of Vegetation and Loss of Buffer Without Replacement

The operators:

- Removed multiple trees along the property line
- Cut large branches off neighboring trees

- Stated they would install a fence
- Have not installed any screening, leaving zero buffer between a residential yard and an active construction/volunteer site

This significantly worsens noise, visibility, and privacy impacts.

8. Visual Blight, Mud, and General Unsafe Conditions

The property currently resembles a mud pit construction zone:

- Debris piles
- Scattered materials
- Vehicles everywhere
- No clear organization or mitigation
- Standing mud and runoff during storms

This condition materially impacts adjacent property use, rental opportunities, and neighborhood aesthetics.

9. Potential Sanitation Issues

It is unclear whether:

- The building has been approved for occupancy
- Bathrooms in the facility are functional and permitted
- RV wastewater is being properly handled

Given the number of people onsite daily, sanitation concerns should be inspected.

Requested Action

I am requesting that Code Enforcement:

1. Inspect the property for zoning violations, unpermitted construction, floodplain infractions, and RV/dwelling issues.
2. Confirm whether proper building, zoning, floodplain, and change-of-use permits have been issued for the renovations, additions, grading, and expanded parking.
3. Review compliance with noise, nuisance, and sanitation ordinances.
4. Require correction where violations are found.

5. Require the owner to install screening or fencing where vegetation was removed.

Photos and videos are available upon request.

Thank you for your attention to these concerns.

Frank Cappelli
1120 Montreat Road
Black Mountain, NC 28711
Email: frankecappelli@gmail.com

Phone: 828-442-3908

Jennifer Tipton

From: Russell Cate
Sent: Monday, December 8, 2025 8:04 AM
To: Anne Phillip
Cc: Michelle Kennedy; Jennifer Tipton
Subject: RE: Floodplain & Environmental Compliance Concerns – 1114 Montreat Road (Adjoining Property Owner)

Good morning Anne,
I want to make sure you're aware that Mr. Cappelli has submitted an appeal of zoning administrator's decision. And he's sent code complaints.
Thanks.

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Sunday, December 7, 2025 9:49 AM
To: Anne Phillip <anne.phillip@tobm.org>; Russell Cate <russell.cate@tobm.org>; Town Clerk <town.clerk@tobm.org>; planning@tobm.org
Subject: Floodplain & Environmental Compliance Concerns – 1114 Montreat Road (Adjoining Property Owner)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Phillip,

My name is Frank Cappelli, and I am an adjoining property owner to 1114 Montreat Road. I own 1120 Montreat Road, 12 Rushing Brook Lane, and 15 Rushing Brook Lane — all bordering the rear portion of this parcel.

I am writing to request a floodplain and environmental compliance investigation regarding activities taking place at 1114 Montreat Road, particularly in the area directly adjacent to the creek.

Based on daily observation and confirmation from the North Carolina FRIS flood mapping system (screenshot



attached), portions of this property lie within a FEMA 100-year floodplain.

I have observed the following conditions in that area:

- Construction debris, lumber, and equipment stored directly beside the creek
- A concrete mixing operation occurring in the floodplain
- Vehicles and trailers parked in the grass along the creek edge
- Soil disturbance and runoff entering the creek during rain events
- Placement of materials and temporary structures that do not appear to have Floodplain Development Permits

I am also concerned that the presence of RVs/trailers on the lower section of the property may pose debris hazards during a flood event unless they are properly permitted and anchored, as required under NFIP regulations.

Because floodplain violations present safety, environmental, and downstream liability risks, I respectfully request:

1. A site inspection to determine whether materials, trailers, equipment, or grading activities violate Black Mountain's Flood Damage Prevention Ordinance.
2. Confirmation of whether any Floodplain Development Permits have been issued for this property.
3. Any corrective actions required by ordinance or by FEMA/NFIP standards.

I can provide photos and videos of the conditions at your request and am available to meet on-site if helpful.

Thank you very much for your attention to this serious matter. I appreciate the important work your office does to protect residents and our waterways.

Sincerely,
Frank Cappelli
frankecappelli@gmail.com

828-442-3908

Jennifer Tipton

From: Russell Cate
Sent: Tuesday, December 9, 2025 9:33 AM
To: Jennifer Tipton
Subject: FW: Formal Request for Clarification and Legal Basis for Emergency Housing Determination — 1114 Montreat Road (Baptists on Mission)

Hi Jennifer,
Since you, Wesley, Michelle and I all touch the current submissions/appeals from Frank Cappelli, I'm forwarding this to keep you in the loop. (Note that Wesley and Michelle received this directly from Frank.) Thanks.

From: Frank Cappelli <frankecappelli@gmail.com>
Sent: Tuesday, December 9, 2025 9:27 AM
To: Russell Cate <russell.cate@tobm.org>; Michelle Kennedy <michelle.kennedy@tobm.org>
Cc: Anne Phillip <anne.phillip@tobm.org>; Wesley Barker <wesley.barker@tobm.org>; planning@tobm.org; Mike Sobol <mike.sobol@tobm.org>; Archie Pertiller <archie.pertiller@yahoo.com>; Pam King <pam.king@tobm.org>; Doug Hay <hay.doug@gmail.com>; Alice Berry <alice.berry@tobm.org>; stonemr6@gmail.com
Subject: Formal Request for Clarification and Legal Basis for Emergency Housing Determination — 1114 Montreat Road (Baptists on Mission)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Russell,

I am writing as an adjacent property owner to formally request clarification — and the legal basis — for the Emergency Housing zoning determination issued on May 14, 2025 for 1114 Montreat Road (Baptists on Mission / NC Baptist Men). I have been advised to obtain the Town's official position in writing as I am working with a team who will assist me in navigating this matter.

My concerns center on (1) the intended purpose of Emergency Housing under Section 5.18, (2) the nature of the occupants being housed, and (3) the maximum legal duration of this use.

1. Intended Purpose of Emergency Housing — Request for Legal Basis

Section 5.18 states that its purpose is to allow temporary habitation related to a declared federal, state, or local disaster, and historically this has applied to:

- Individuals displaced from their homes, and
- Emergency responders or personnel officially deployed to address the disaster.

However, according to the May 14 determination, the Town has interpreted Emergency Housing to include:

"volunteers and volunteer groups for overnight stays ranging from 1–14 days."

I respectfully request an explanation of the legal basis under 5.18 for extending Emergency Housing to general volunteer groups who are not displaced residents and are not official emergency personnel.

To be clear:
Church mission teams or construction volunteers coming from out of town to work on projects are not disaster victims and are not emergency workers deployed by FEMA, NC DPS, or any governmental authority.

If 5.18 is being newly interpreted to include general volunteer groups, I am requesting the statutory or case law authority that supports this interpretation. The plain language and stated purpose of the ordinance do not appear to authorize such an expansive reading.

2. Representations Made to the Town vs. Public Statements

It is my understanding that Baptists on Mission represented to the Town that this facility would be used for short-term stays directly related to Hurricane Helene recovery.

However, the organization has repeatedly stated publicly — including in recent news coverage — that they intend to operate at this location for 4–5 years, serving a broad range of mission groups not limited to Helene recovery.

This raises two concerns:

a) A 4–5 year intended use is incompatible with "temporary emergency housing."
b) A materially different public intent suggests that the Town's approval may have been based on incomplete or inaccurate representations.

I request clarification on the Town's standard procedure when the stated purpose in an application differs from what the organization publicly promotes.

3. Duration of Emergency Housing Authorization — Request for Confirmation

Section 5.18.2(C) specifies:

"Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year."

Hurricane Helene was declared a disaster in September 2024, which means:

- The Emergency Housing authorization expires no later than September 2026, unless
- A one-year extension is granted, which would expire no later than September 2027.

Given the organization's public statements that they intend to remain for 4–5 years, I request written confirmation that the Town recognizes:

The use must cease in September 2026 unless an extension is granted, and

No extensions beyond one additional year are permitted under the ordinance.

I also request confirmation that any continued use beyond that date would require a new zoning approval process that includes ACTUAL public notice and an opportunity for neighboring residents to participate - unlike what was previously granted.

4. Reason for Request

As the adjacent property owner, the impacts of this use have been significant, ongoing, and unanticipated. Before pursuing further steps, I have been advised to obtain the Town's clear and formal interpretation of:

1. What constitutes an eligible Emergency Housing occupant,
2. The legal justification for including volunteer groups, and
3. The precise end date of the Emergency Housing authorization.

I appreciate your prompt attention to this matter and respectfully request a written response addressing each point above.

Sincerely,
Frank Cappelli
Black Mountain, NC
Adjacent property owner

TOWN OF BLACK MOUNTAIN

160 Midland Avenue • Black Mountain, North Carolina 28711
Phone (828) 419-9300 • Fax (828) 419-7210 • TDD 800-735-2962
www.townofblackmountain.org

Mayor
C. Michael Sobol

Town Council
Vice-Mayor Archie Pertiller
Council Member Alice Berry
Council Member Doug Hay
Council Member Pam King
Council Member Ryan Stone

Town Manager
Josh M. Harrold

Assistant Town Manager
Jessica Trotman

Town Clerk
Wesley M. Barker

May 14, 2025

North Carolina Baptist Men
PO Box 1107
Cary, NC 27512-1107

RE: Zoning Determination for 1114 Montreat Road
Buncombe County Property ID Number (PIN): 071041779500000
Zoning District: Urban Residential (UR-8)

Baptists On Mission and North Carolina Baptist Men:

At the preliminary tech review meeting held on May 8, 2025, I offered to provide a zoning determination letter for 1114 Montreat Road. The property is in the Urban Residential (UR-8) zoning district.

In the context of the late September 2024 emergency declaration, you've stated the project goal as hosting volunteers and volunteer groups for overnight stays ranging from one to 14 days, related to a declared federal, state, or local disaster. This corresponds with the use ***Emergency Housing*** [Section 5.18 (Emergency Housing) of Chapter 5].

We've received communication from the NC Department of Public Safety (DPS) stating that Baptists On Mission / North Carolina Baptist Men operates in collaboration with DPS, which meets the requirement stated in Section 5.18.2 (A) (2).

As a reminder, Section 5.18.1 states that the use purpose is "to permit the use of travel trailers, manufactured housing, building-code compliant structures for habitation, or other FEMA-approved shelters as a temporary use related to a declared federal, state, or local disaster." And

continued

Section 5.18.2 (C) states: "Temporary Use. Emergency housing shall be permitted for up to two (2) years from the date of the declared disaster and may be extended by the Zoning Administrator for up to one (1) additional year."

Should you have any questions, please feel free to contact me at 818-419-9373 or Russell.cate@tobm.org.

Sincerely,

Russell Cate, CZO

Planner & Zoning Administrator

CC: Michelle Kennedy, Planning Director

TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES

APPEAL FORM www.townofblackmountain.org

APPELLANT INFORMATION

Name: Frank Cappelli

Address: 1120 Montreat Road, Black Mountain, NC 28711

Phone #: 828-442-3908

Email: frankecappelli@gmail.com

APPEAL FROM DECISION OF ZONING ADMINISTRATOR

This is an appeal from a decision of the Zoning Administrator, to wit:

The Zoning Administrator's May 14, 2025 zoning determination that the proposed use of 1114 Montreat Road qualifies as "Emergency Housing".

AFFECTED PROPERTY

Address: 1114 Montreat Road

PIN #: 0710-41-7795

Zoning Classification: UR-8

GROUNDS FOR APPEAL

I own three properties that directly abut 1114 Montreat Road and because of the current and propose use of 1114 Montreat Road I and my tenants are experiencing, and reasonbly expect to continue experiencing, specific, direct harm that goes well beyond any general impact on the public - please see attached documents

STATEMENT AND SUBSTANTIATION OF STANDING

See above and attached documents

ACKNOWLEDGEMENT

Frank Cappelli
Appellant

Date: 12/05/2025

Attorney for Appellant

Date:

OFFICE USE ONLY

Date Received: 12/5/2025

Received by: Jennifer Ryter

Town of Black Mountain
160 Midland Avenue, Black Mountain, NC 28711
Phone: 828-419-9300 ~ Fax: 828-669-2030
www.townofblackmountain.org

received 12/05/2025
Jennifer Tipton

Draft – Notice of Appeal to Board of Adjustment

(Black Mountain, NC – 1114 Montreat Road)

Date: 12/5/25

To:
Black Mountain Board of Adjustment
c/o Town Clerk and Planning Department
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711

Via: Hand delivery and email

From:
Frank Cappelli
Owner of: 1120 Montreat Road; 12 Rushing Brook Lane; 15 Rushing Brook Lane
Black Mountain, NC 28711
Email: frankecappelli@gmail.com
Phone: 828-442-3908

Re: NOTICE OF APPEAL

Zoning Administrator's Determination Dated May 14, 2025
Property: 1114 Montreat Road, Black Mountain, NC (UR-8)

Dear Members of the Board of Adjustment:

Pursuant to applicable provisions of the Town of Black Mountain Land Use Code and North Carolina General Statutes governing appeals of administrative zoning decisions, I hereby **appeal** the Zoning Administrator's **May 14, 2025 zoning determination** that the proposed use of **1114 Montreat Road** qualifies as "Emergency Housing."

I respectfully request that the Board schedule and hold a **quasi-judicial evidentiary hearing** on this appeal and, after hearing the evidence, **overturn** the Zoning Administrator's determination.

---

1. Timeliness of Appeal

On **December 2, 2025**, I received the **Zoning Determination Letter dated May 14, 2025** by email. This was the first time I personally received notice of the specific administrative

decision and the legal basis for classifying the use of 1114 Montreat Road as "Emergency Housing."

While I had previously seen activity at the site and understood that some form of work was occurring there, I **did not know** that a special zoning determination had been issued allowing a use outside of the normal zoning rules for our district. Until I received the determination letter, I assumed the project was proceeding under the standard uses allowed in the UR-8 district.

This Notice of Appeal is being filed **within 30 days** of my receipt of the written decision, and is therefore **timely** under North Carolina law governing appeals of administrative zoning decisions.

---

2. Standing – How I Am Directly and Uniquely Affected

I have standing as an **aggrieved party** because I own **three properties that directly abut 1114 Montreat Road**:

- **1120 Montreat Road**
- **12 Rushing Brook Lane**
- **15 Rushing Brook Lane**

The 1114 Montreat Road property **shares a property line with each of my properties and runs parallel to them.** Our homes and our tenants are immediately adjacent to this use.

Because of the current and proposed use of 1114 Montreat Road, I and my tenants are experiencing, and reasonably expect to continue experiencing, **specific, direct harms** that go well beyond any general impact on the public:

- **Increased traffic and noise:**
  There has already been a noticeable increase in vehicle traffic associated with the project. Work and activity at the site begins at **7:00 a.m. sharp**, with associated noise and disturbance.
- **Loss of privacy / intrusive behavior:**
  Workers are present on the site **constantly**. There is at least one worker who routinely **sits on the roof** of the building and **looks directly at our house while eating lunch**, creating an ongoing feeling of being watched and a severe loss of privacy for my family and my tenants.

- **Leering and behavior around my family:**
  Volunteers and workers **linger at the property line**, often **smoking cigarettes just steps from where my children play**. Multiple volunteers have **leered at my wife** while she is in our yard. This is not typical or acceptable for a residential neighborhood.

- **Trespass / safety concerns:**
  Multiple volunteers have **come onto our property** uninvited under the guise of "trying to find people in the community to help." We have **no way to vet these individuals** or to know how Baptists on Mission screens their volunteers. This constant turnover of unknown people entering or approaching our property is a serious **safety and security concern** for my family and tenants.

- **Overflow parking and visual blight:**
  Overflow parking already occurs right at our property line. The way the site is currently being used and maintained has caused the property to look like an **absolute mess**—with numerous vehicles and equipment stored there. Even compared to the prior condition of the property (which was already poor), the site now appears far more cluttered and industrial.

- **Impact on tenants and property value:**
  One set of tenants has **already moved out** of one of our properties, and we are **reluctant to re-rent** due to the degraded appearance of the area and the constant activity. We reasonably believe the **property value and rental value** of our homes have been significantly harmed by the current and anticipated future use of 1114 Montreat Road.

- **Flooding and creek impacts:**
  The property sits along a **creek**. There are legitimate concerns about how the **storage of equipment, vehicles, and materials so close to the creek** may affect flood risk and the integrity of our properties in this flood-prone area.

These impacts are not abstract or speculative; they are **already being experienced** and are **directly tied** to the use authorized by the zoning determination. As an immediately adjacent property owner who shares a property line with the site, I am suffering **special damages** that clearly establish my standing to bring this appeal.

---

3. Grounds for Appeal – Error in Classifying the Use as "Emergency Housing"

My appeal is based on the contention that the Zoning Administrator **misinterpreted and misapplied** the Land Use Code in determining that the proposed and current use of 1114 Montreat Road qualifies as "Emergency Housing."

While I will submit the full ordinance language and additional evidence at the hearing, the key points are summarized below:

A. This Is a Long-Term Volunteer Campus, Not Temporary "Emergency Housing"

Baptists on Mission have publicly described this site as a **volunteer campus** intended to host volunteers for **years**, not as short-term emergency housing for displaced residents.

- The use at 1114 Montreat Road is **not housing disaster victims**.
- It is **housing volunteers**—people coming from outside the community to work on projects of their choosing.
- Their own volunteers came to our house and complained that they were **rebuilding this facility, not rebuilding houses** in the community, reinforcing the idea that the focus is the long-term campus itself.

By their own statements and actions, this is **not** a temporary emergency shelter use. It functions as a **year-round volunteer lodging and operations center**.

B. The Use Is Not Truly Temporary and Is Intended to Be Long-Term

Public statements by Baptists on Mission (including media reports) indicate that they **intend to operate this facility for four to five years or more.** That is a **long-term institutional presence**, not an emergency-only use.

Even now—**before** full operations have begun—the character of the site is that of a **construction and staging yard** for a substantial facility, with long-term impacts on neighboring homes.

Authorizing a long-term volunteer base camp in a UR-8 residential district under the narrow label of "Emergency Housing" stretches the ordinance beyond its intended meaning and undermines the protections afforded to neighboring residential properties.

C. The Nature and Intensity of Occupancy Is Incompatible with UR-8

The proposed and existing use, as described by Baptists on Mission, involves housing **large numbers of volunteers** on site, feeding them, staging vehicles, and operating on an institutional schedule (early morning departures, group movement, etc.). In practice, this is closer to a **group lodging/dormitory or campus-style facility** rather than a typical residential use.

Absent the emergency housing classification, such a group facility would **not normally be allowed** in the UR-8 district without special approvals or might be outright prohibited. Using the emergency housing provision to introduce a quasi-institutional, high-turnover facility into a residential area **defeats the purpose of the zoning district**.

D. Current Construction and Staging Already Harm the Neighborhood

Even though the facility is not yet operating at its full intended capacity, the **present construction phase and site use** are already materially degrading the neighborhood:

- Constant work starting at 7:00 a.m.
- Workers on roofs overlooking adjacent homes
- Storage of numerous vehicles and materials
- Overflow parking and increased traffic
- Volunteers lingering at the property line near our children

The determination enabling this use has **immediate and ongoing consequences**, not just hypothetical future ones.

---

4. Relief Requested

Based on the above, I respectfully request that the Board of Adjustment:

1. **Reverse** the Zoning Administrator's May 14, 2025 determination and find that the proposed use of 1114 Montreat Road **does not qualify as "Emergency Housing"** under the Land Use Code and is therefore **not permitted** as currently approved in the UR-8 district; **or**, in the alternative,
2. If the Board believes some limited form of temporary emergency use can be allowed, then impose **strict conditions and limitations** consistent with the plain language and intent of the ordinance, including but not limited to:
    - Clear **time limits** tied to the actual disaster recovery period,
    - Limits on **number of occupants** and **hours of operation**,
    - Requirements for **screening/buffering**,
    - Prohibitions on volunteers entering neighboring properties uninvited, and

- Protection of the neighboring properties from excessive noise, traffic, and visual blight.

I intend to present **photos, videos, witness testimony from neighbors, and relevant ordinance and documentary evidence** at the evidentiary hearing to support this appeal.

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5. Request for Scheduling and Notice

Please accept this letter as my formal **Notice of Appeal** of the May 14, 2025 zoning determination for 1114 Montreat Road.

I respectfully request that:

- This matter be placed on the agenda for the **next available Board of Adjustment meeting** consistent with the Town's application deadlines; and
- I be provided with **reasonable advance notice** of the hearing date, time, and any deadlines for submitting exhibits or witness lists.

Thank you for your attention to this matter and for your service to the Town. I look forward to the opportunity to present evidence and argument to the Board.

Respectfully submitted,

Frank Cappelli
Owner of 1120 Montreat Road; 12 Rushing Brook Lane; 15 Rushing Brook Lane

LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, January 15, 2026, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, January 15, 2026, at 6:00 p.m**. in the Council Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hear an appeal of the Zoning Administrator's decision for 1114 Montreat Road, PIN #0710-41-7795.00000, regarding the use of the building for emergency housing.

The meeting is open to the public.

Jennifer Tipton
Senior Admin

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton at 419-9371 or by email at Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 12/31/2025
Published in the Black Mountain News 01/08/2026 and 01/15/2026

www.townofblackmountain.org

CERTIFICATE OF SERVICE

This is to certify that the foregoing Record has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, as well as by electronic mail, to the following:

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