Town of Montreat
Board of Commissioners Meeting – Public Forum
September 12, 2024 – 5:30 p.m.
Town Hall

I. Call to Order

- Welcome
- Moment of Silence

II. Agenda Adoption

III. Public Comments

IV. Adjournment

Town of Montreat
Board of Commissioners
Town Council Meeting
September 12, 2024 – 6:00 p.m.
Town Hall

I. Call to Order

- Pledge of Allegiance
- Moment of Silence

II. Agenda Adoption

III. Mayor's Communications

IV. Consent Agenda

A. Meeting Minutes Adoption

- August 8th Public Forum Meeting Minutes
- August 8th Town Council Meeting Minutes

All items on the Consent Agenda are considered routine, to be enacted by one motion with the adoption of the agenda and without discussion. If a member of the governing body requests discussion of an item, it will be removed from the Consent Agenda and considered separately.

V. Town Manager's Communications

- Consent Agenda Review
- Other Items

VI. Administrative Reports

- Administration
- Planning and Zoning
- Police
- Public Works and Water
- Sanitation
- Streets
- Finance
- August Building Permit Information

VII. Public Comment

Public comments will be heard during this period for <u>any and all items.</u>

VIII. Old Business

IX. New Business

A. Election Issue Update
- **Presenter: Jake Quinn, Chair of Buncombe Co. Board of Elections**
- **Discussion only**

B. TA-2024-04 – Text Amendment Public Hearing
- **Presenter: Kayla DiCristina**
- **See Agenda Materials on page 22-31**
- **Suggested Motion: Move to open/close Public Hearing**

C. TA-2024-04 – Adoption Ordinance
- **Presenter: Kayla DiCristina (if needed)**
- **See Agenda Materials on pages 32-34**
- **Suggested Motion: Adopt/adopt with revisions Ordinance #2024-09-001 for TA-2024-04**

D. Bear Survey Results/Discussion
- **Presenter: Commissioner Tom Widmer**
- **See Agenda Materials on page**
- **For Discussion Purposes Only**

X. Public Comment

Public comments will be heard during this period for <u>any and all items.</u>

XI. Commissioner Communications

XII. Dates to Remember

- **Hillside Development Ordinance Subcommittee, Wednesday September 25th at 9:00 a.m. in Town Hall**
- **Sign Ordinance Subcommittee, Thursday September 26th from 2:45 – 4:45 p.m. in Town Hall**
- **Landcare, Wednesday October 2nd at 9:00 a.m. in Town Hall with Zoom option**

- **October Town Council Meeting, Thursday October 10th at 6:00 p.m. in Town Hall with Zoom option. Public Forum to begin at 5:30 p.m.**
- **Planning & Zoning Commission Meeting, Thursday October 17th at 10:30 a.m. in Town Hall with Zoom option**

XIII. Adjournment

Town of Montreat
Board of Commissioners
Public Forum Meeting Minutes
August 8, 2024 – 5:30 p.m.
Town Hall

Board members present:	Mayor Tim Helms Commissioner Jane Alexander Mayor Pro Tem Mason Blake Commissioner Kitty Fouche Commissioner Grant Dasher Commissioner Tom Widmer
Board members absent:	None
Town staff present:	Savannah Parrish, Town Manager Angie Murphy, Town Clerk Olivia Presley-Eades, Patrol Officer Brandon Freeman, Town Attorney

Approximately six members of the public were present. Mayor Tim Helms called the meeting to order at 5:30 p.m. and led the group in a moment of silence.

Agenda Approval

Mayor Pro Tem Mason Blake moved to adopt the agenda as presented. Commissioner Jane Alexander seconded, and the motion carried 5/0.

Public Forum

Tom Frist of 98 Frist Road stated that he was very pleased to see that plans for the Texas Road Pedestrian Bridge seem to be moving forward. Mr. Frist then asked for an update on the proposed Billy & Ruth Graham Memorial Park which was to be adjacent to the Texas Road Pedestrian Bridge. Mayor Helms stated that once the Bridge Project is completed then the Commissioners will work on plans for the proposed park. Mayor Pro Tem Mason Blake stated that at this point there were no budgeted funds for the park. Mayor Pro Tem Blake went on to say that once the bridge is complete steps will be made to budget monies or investigate private funding for the park.

Eric Nichols of 527 Suwannee Drive asked about the process for stormwater runoff and other related construction issues. Town Manager Savannah Parrish advised that to report a suspected violation to contact Town Hall with your concerns. Upon hearing the concern, Zoning Administrator Kayla DiCristina or Building Inspector Dan Cordell would investigate the issue to ensure all construction is within the scope of the Town ordinances. Mr. Nichols also thanked everyone, Town Council and Town Staff, for all they do daily for Montreat.

Mari Gramling of 216 Alabama Terrace had several items to discuss:

- Bears: Ms. Gramling advised that not only are the bears doing damage to trash cans now they are damaging trees! A bear, nicknamed “Young Yogi”, has destroyed Ms. Gramling wild cherry tree in her yard.
- Dog Waste Bags: Ms. Gramling expressed her frustration over dog walkers dropping dog waste bags into her bear proof trash container. Commissioner Widmer advised that he also has trouble with that issue and during the week he secures his can with a key/padlock and unlocks it on trash pickup days.
- Speed: Ms. Gramling suggested lowering the speed limit through the Montreat Gate. Ms. Gramling feels that speed in Montreat needs to be addressed at some point. Ms. Gramling also had a concern with where a stop sign is placed on Alabama Terrace. Town Manager Parrish will ask the Police Chief to have a look at the stop sign placement in that area.

Adjournment

Commissioner Tom Widmer moved to adjourn the meeting. Commissioner Grant Dasher seconded, and the motion carried 5/0. The meeting was adjourned at 5:45 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

Town of Montreat
Board of Commissioners
Meeting Minutes
August 8, 2024 – 6:00 p.m.
Town Hall

Board members present:	Mayor Tim Helms Mayor Pro Tem Mason Blake Commissioner Kitty Fouche Commissioner Jane Alexander Commissioner Grant Dasher Commissioner Tom Widmer
Board members absent:	None
Town staff present:	Savannah Parrish, Town Manager Rachel Eddings, Finance Officer Barry Creasman, Public Works Director Tim Bradley, Interim Police Chief Olivia Presley-Eades, Patrol Officer Brandon Freeman, Town Attorney

Approximately seven members of the public were present at Town Hall and several more were watching via Zoom. Mayor Tim Helms called the meeting to order at 6:00 p.m. and led the group in the pledge of allegiance and a moment of silence. Mayor Helms advised that Item D, the Internal Control Policy, would need to be removed from the agenda due to additional work needed on the document.

Agenda Adoption

Commissioner Kitty Fouche moved to adopt the agenda as amended. Commissioner Jane Alexander seconded, and the motion carried 5/0.

Mayor's Communications

Mayor Helms introduced Interim Police Chief Tim Bradley and the newest Montreat Patrol Officer Olivia Presley-Eades. Mayor Helms also took a moment to re-introduce Town Attorney Brandon Freeman.

Meeting Minutes Adoption

- June 18th Special Meeting Minutes
- July 11th Public Forum Meeting Minutes
- July 11th Town Council Meeting Minutes

Mayor Pro Tem Mason Blake discussed several amendments needed to the minutes.

Town Manager's Communications

Town Manager Savannah Parrish stated that a new full-time Police Chief has been hired. Chief Jeff Eaton will start the first week of September and he will bring with him over 30 years of law enforcement experience.

Administrative Reports

- Administration – This report was given in written format.
- Finance – June – This report was given in written format.
- Finance – July - This report was given in written format.
- Planning & Zoning – This report was given in written format.
- Police – This report was given in written format.
- Public Works and Water – This report was given in written format.
- Sanitation – This report was given in written format.
- Streets – This report was given in written format.
- July Building Permits – This report was given in written format.

The Commissioners thanked Town Staff for updating the format of the Administrative Reports to better reflect current statistical information.

Commissioner Tom Widmer thanked Town Staff for working hard to control expenses last fiscal year.

Public Comment

There was no Public Comments.

Old Business

A. Civil Design Concepts Proposal for Texas Road Pedestrian Bridge Project: Ms. Parrish advised that Civil Design Concepts was open to making the changes to the contract that were proposed at last month's Town Council meeting. Mayor Pro Tem Mason Blake also suggested a few changes as well. The new contract reflected these changes. Commissioner Jane Alexander moved to approve the Civil Design Concepts Proposal for the Texas Road Pedestrian Bridge Project with minor adjustments by the Town Attorney and the last sentence on page 2 removed. Mayor Pro Tem Mason Black seconded the motion. Commissioner Tom Widmer asked for a few clarifications. The motion carried 5/0.

B. Montreat Tomorrow Comprehensive Plan Implementation Tracher: Ms. Parrish advised that this document compiled by Zoning Administrator Kayla DiCristina was for informational purposes only. Mayor Helms thanked Ms. DiCristina for her work on the tracker.

New Business

A. Ratify Resolution for Streambank Stabilization at 515 SC Terrace: Ms. Parrish advised that the Streambank Stabilization Resolution had already been approved and sent in with the grant documents ahead of the deadline. This item was purely a procedural vote on the required resolution. Commissioner Kitty Fouche moved to ratify resolution for Streambank Stabilization at 515 SC Terrace. Commissioner Grant Dasher seconded, and the motion carried 5/0.

B. Contract to Audit Accounts: Ms. Parrish advised that the contract will be with Carter, P.C., the auditors who the Town has used the past couple of years, to facilitate the annual audit. Ms. Parrish advised the price was slightly decreased over last year. Mayor Pro Tem Mason Blake moved to approve the Contract to Audit Accounts with Carter, P.C. in the amount of $28,400. Commissioner Tom Widmer seconded, and the motion carried 5/0.

C. Pet Waste Ordinance: Ms. Parrish advised that this item was a conversation starter. Ms. Parrish had a sample ordinance that addressed a variety of pet waste related issues and she stated that it would be ideal to hear from the public as well as the Commission with their thoughts on the matter. Mayor Pro Tem Blake advised that the sample ordinance did not seem to address the placement of pet waste bags in someone else's bear proof container. Ms. Parrish suggested that Town Staff had recently heard several complaints about this issue in recent weeks. Ms. Parrish offered to reach out to Montreat College and Mountain Retreat Association (MRA)so they can let their students and conference attendees know that this practice is not allowed. Public Works Director Barry Creasman advised that Sanitation Specialist Drew Brown empties all the specified pet waste containers on Thursdays. Mr. Creasman suggested that if the MRA were to install pet waste containers at the trailheads that it could minimize the misuse of private bear boxes in Town. Commissioner Dasher suggested the Town provide informational magnets to put on bear boxes outlining the "rules" of dog waste bags and other matters. Commissioner Fouche felt that more education on the proper disposal of pet waste bags was important to address. Ms. Parrish stated that she would take all comments and redraft the ordinance for next month's meeting.

D. Order of Collection: Ms. Parrish advised that last year Finance Officer Rachel Eddings was appointed as Tax Collector for the Town of Montreat. Ms. Parrish also stated that these documents were provided directly from the Buncombe County Tax Collector for the Commission's review. Mayor Pro Tem Mason Blake moved to approve the Order of Collection and authorize the mayor's signature. Commissioner Jane Alexander seconded, and the motion carried 5/0.

E. Landcare Update on Flat Creek Crossing/Submission of the Phase II County Tourism Development Fund Grant Proposal: Jean Norris, secretary/bookkeeper of the Flat Creek Crossing Steering Committee, provided a brief update on the Flat Creek Crossing Project. The current project estimate totals $357,526. That amount also allows for education and digital resources and routine and major maintenance of the trail/park area. The estimate for the budget is from

multiple sources and a range of materials. The Flat Creek Crossing (FCC) Committee has raised approximately $94,000 to date. Ms. Norris advised that grant funding would be necessary. Ms. Norris advised that the FCC received a Pigeon River Fund Grant in the amount of approximately $34,000. The FCC also applied for the Accessible Parks Grant/Fund from the NC Division of Parks & Recreation in the amount of $272,000. Ms. Norris also mentioned that the FCC has applied for the Buncombe County Tourism Development Fund in the amount of $135,500 as well. Ms. Norris also advised Council that there will be a ceremonial ground-breaking on September 4th at 4:00 p.m. Town Manager Parrish and members of the Council thanked the entire FCC Committee for all their hard work especially with regards to obtaining grant funding. Commissioner Tom Widmer moved to approve the submission of the Phase II County Tourism Development Fund Grant Proposal. Commissioner Kitty Fouche seconded, and the motion carried 5/0.

Public Comment

There was no Public Comment at this time.

Commissioner Communications

Mayor Pro Tem Mason Blake expressed his frustrations over neighbors putting their trash in his trash container. Mayor Pro Tem Blake reviewed the ordinances to see if there was something written to prevent this and there was not. Mayor Pro Tem Blake expressed his intentions to update the ordinance to include a penalty for those that put their trash in someone else's containers rather than visiting the Convenience Center. Mr. Blake also took a moment to thank Interim Police Chief Tim Bradley for making sure a citation was issued for a hunting dog violation that occurred in April.

Commissioner Tom Widmer acknowledged Town Manager Savannah Parrish's one-year anniversary with the Town.

Dates to Remember

- Hillside Development Ordinance Subcommittee, August 14th at 9:00 a.m. in Town Hall
- Tree Board, Tuesday August 27th at 9:30 a.m. in Town Hall with Zoom options
- Town Offices Closed in Observance of Labor Day, Monday, September 2nd. Sanitation Services will resume on Tuesday, September 3rd.
- Landcare, Wednesday September 4th at 9:00 a.m. in Town Hall with Zoom options
- Flat Creek Crossing Ground-Breaking Ceremony, Wednesday September 4th at 4:00 p.m.
- September Town Council Meeting, Thursday September 12th at 6:00 p.m. in Town Hall with Zoom options. Public Forum to begin at 5:30 p.m.

- PZC Sign Subcommittee Meeting, Thursday September 19th at 1:00 p.m. in Town Hall.
- Tree Board, Tuesday September 24th at 9:30 a.m. in Town Hall with Zoom options
- Hillside Development Ordinance Subcommittee, Wednesday September 25th at 9:00 a.m. in Town Hall

Adjournment

Commissioner Kitty Fouche moved to adjourn the meeting. Commissioner Jane Alexander seconded, and the motion carried 5/0. The meeting was adjourned at 6:54 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

TOWN OF MONTREAT
P. O. Box 423, Montreat, NC 28757
Tel: (828) 669-8002 | Fax: (828) 669-3810
www.townofmontreat.org

ADMINISTRATIVE REPORTS:
ADMINISTRATION

Town Administration report for the month of August 2024

Monthly Statistics	2023	2024
Public Meetings	4	4
Public Records Requests Processed	0	4
Water Bills Processed & Mailed	680	658
Water Bills Processed & Emailed	680	42
Leak Adjustments	5	2
Sunshine List Messages	10	9
Website Posts	10	9
Social Media Posts	3	9

Upcoming Events and Schedule Changes
0

Comments
N/A

Staff Communications
0

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ADMINISTRATIVE REPORTS:
BUILDINGS AND INSPECTIONS

Buildings and Inspections report for the month of August 2024

Monthly Statistics	2023	2024
Building Permits Issued	15	5
Pending Building Permits	0	0
Building Inspections Performed	32	36
Stop Work Order Issued	0	0
Defective Building Posted	0	0
Denied Building Permits	0	0
Fire Inspections Performed	0	0
Fire Re-Inspections Performed	0	0
Fire Permits Issued	0	0

Comments
0

Staff Communications

0

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ADMINISTRATIVE REPORTS:
STREETS

Streets Department report for the month of August 2024

Monthly Statistics	2023	2024
Public Trees Removed	0	8
Sand Applied to Roads (tons)	0	0
Ice Melt Applied to Roads (pounds)	0	0
Road Closures	0	2

Comments

0

Staff Communitactions:

0

TOWN OF MONTREAT
NORTH CAROLINA

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ADMINISTRATIVE REPORTS:
POLICE DEPARTMENT

Police Department report for the month of August 2024

Monthly Statistics	2023	2024
Animal Issue	0	1
Assist EOC	0	2
Check Business	0	46
Check Residence	0	1
Checking Station (BCSD)	0	1
Contact Public	0	5
Debris Blocking Road	0	2
Directed Patrol (BCSD)	0	14
Dog Barking	0	1
Follow Up Investigation	0	11
Foot Patrol	0	5
Gun Discharge	0	1
Improper Parking	0	1
Investigate_BCSD	0	2
Locked Vehicle (BCSD)	0	1
Security Check BCSD	0	76
Special Assignment	0	2
Security Check BCSD	0	4
Standby	0	1
Suspicious Person	0	10
Suspicious Vehicle	0	10
Traffic Enforcement (APD)	0	1
Traffic Stop	0	35
Trespassing	0	1

Comments

A reminder, our non-emergency number has changed. You can reach the MPD Officer on duty through Buncombe County Dispatch. 828-250-6670. The new data above will be a more accurate reflection of the month as it is coming directly from Buncombe County Dispatch Reports.

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ADMINISTRATIVE REPORTS:
WATER AND PUBLIC WORKS

Water and Public Works report for the month of August 2024

Monthly Statistics	2023	2024
Calls for Service	33	64
Water Leaks Repaired	0	0
New Water Lines Installed	0	0
Water Meter Replacements	10	30
Gallons of Water Produced	2,988,796	3,410,573
Hours Pumped (11 wells combined)	2,045	2,030
Water Samples Taken	0	5 Samples

Comments
0

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ADMINISTRATIVE REPORTS:
SANITATION

Sanitation Department report for the month of August 2024

Monthly Statistics	2023	2024
Tons of Curbside Trash Collected	24.36	17.69
Tons of Curbside Recycling Collected	5.68	14.24
Unique Curbside Sanitation Stops	1740	1760
Special Pickup Stops	0	13
Bagged Leaf Pickup	176	108
Brush Pickup (cubic yards)	4 Loads	4 Loads
Hauling Fees	6917.9	5622.5
Tipping Fees	2886	2307.29
Dumpster Rental Fees	460.3	217.63
Convenience Center Usage-Trash	0	9.92 tons
Convenience Center Usage-Recycle	0	2.86 tons

Comments:

We had 25 Trash related issues with one citation issued.

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ADMINISTRATIVE REPORTS:
ZONING ADMINISTRATION

Zonning Administration report for the month of August 2024

Monthly Statistics	2023	2024
Approved Zoning Permits	3	2
Denied Zoning Permits	0	0
Pending Zoning Permits	1	2
Variance/Interpretation Granted	0	0
Special Use Permits Granted	0	0
Permit Extensions Granted	0	0
Notice of Violations	0	0

Comments
0

TOWN OF MONTREAT
NORTH CAROLINA

August 2024 - MONTH 2 OF FISCAL YEAR 2024-2025

REVENUES

Fund	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Collected	YTD Actual Percentage	Difference
GENERAL FUND	10	2,232,905.00	372,150.83	16.67%	44,605.18	2.00%	(327,545.65)
WATER FUND	30	423,744.00	70,624.00	16.67%	77,625.48	18.32%	7,001.48
TOTAL REVENUES GENERAL & WATER FUNDS		**2,656,649.00**	**442,774.83**	**16.67%**	**122,230.66**	**4.60%**	**(320,544.17)**

EXPENSES

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
GOVERNING BODY	10	54,791.00	9,131.83	16.67%	7,795.25	14.23%	1,336.58
ADMINISTRATION	10	513,430.00	85,571.67	16.67%	98,784.20	19.24%	(13,212.53)
PUBLIC BUILDINGS	10	128,353.00	21,392.17	16.67%	34,561.15	26.93%	(13,168.98)
POLICE	10	475,950.00	79,325.00	16.67%	64,357.69	13.52%	14,967.31
BUILDING AND ZONING	10	101,900.00	16,983.33	16.67%	13,922.59	13.66%	3,060.74
PUBLIC WORKS	10	159,083.00	26,513.83	16.67%	31,531.19	19.82%	(5,017.36)
STREET	10	555,202.00	92,533.67	16.67%	58,865.54	10.60%	33,668.13
SANITATION	10	220,146.00	36,691.00	16.67%	41,417.15	18.81%	(4,726.15)
ENVIRON,CONS,REC	10	24,050.00	4,008.33	16.67%	8,416.63	35.00%	(4,408.30)
TOTAL EXPENSES GENERAL FUND		**2,232,905.00**	**372,150.83**	**16.67%**	**359,651.39**	**16.11%**	**12,499.44**

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
WATER	30	423,744.00	70,624.00	16.67%	50,712.83	11.97%	19,911.17
TOTAL EXPENSES WATER FUND		**423,744.00**	**70,624.00**	**16.67%**	**50,712.83**	**11.97%**	**19,911.17**
TOTAL EXPENSES GENERAL & WATER FUNDS		**$2,656,649.00**	**$442,774.83**	**16.67%**	**$410,364.22**	**15.45%**	**$32,410.61**

GENERAL FUND INCOME/LOSS - YTD	**($315,046.21)**
WATER FUND INCOME/LOSS - YTD	**$26,912.65**
NET INCOME - YTD 2024	**($288,133.56)**

SPECIAL PROJECTS

Project	Fund #	Budget	This Month Actual	Amount Spent To Date	Balance Remaining		% Spent
FEMA-MISC	25	220,590.00	0.00	206,378.50	14,211.50		93.56%
LANDCARE	26	109,224.43	0.00	9,001.28	115,332.64		8.24%
AMERICAN RESCUE PLAN ACT	28	277,266.78	0.00	277,266.78	0.00		100.00%
TOTAL SPECIAL PROJECTS		**$ 607,081.21**	**$ -**	**$ 492,646.56**	**$ 129,544.14**		81.15%

Debt Service Ratio - General Fund	6.27%	LGC Benchmark 12% or below
Debt Service Ratio - Water Fund	10.10%	LGC Benchmark 12% or below

Date of Deposit	Jul-23	Jul-24	% +/-	Aug-23	Aug-24	% +/-	Sep-23	Sep-24	% +/-	Oct-23	Oct-24
AdVal/RMV (Includes Sp Assess&Ded Fees)	2,021.44	0.00	#DIV/0!	9,164.35	8,739.19	-5%	69,593.42	0.00	#DIV/0!	146,659.11	0.00
Sales	47,103.37	48,034.28	2%	51,442.97	51,571.85	0%	55,100.98	0.00	#DIV/0!	52,397.02	0.00
Solid Waste (Quarterly)				198.73	189.97	-5%					
Utility Fran (Quarterly)							20,713.30	0.00 QE 6/30/24	#DIV/0!		
Wine/Beer (Annual-May)											

NOTES:
AdVal Tax is received the month after the tax is collected
RMV Tax is received two months after the tax is collected
Sales Tax is received three months after the tax is collected

August Building Permit Information

Date	Name	Property Address	Permit Type	Project	Zoning Approval	Cost	CONTRACTORS	Fee Amount
8/5/2024	John & Grace Butler	303 Chapman Rd	Plumbing		n		Mr. Rooter	$ 100
8/7/2024	Chris Reade	381 WV Terrace	elect/mech		n		Gentry Service Group	$ 100
8/9/2024	Leslie Dibble	408 Appalachian Way	elect/mech	heat pump	n		Bullman Heating & Air	$ 100
8/15/2024	John Shaw & Betsy Shaw	431 Appalachian Way	building	repair deck	n		Blk Mtn Handyman	$ 150
8/19/2024	Moffit Burriss	239 Assembly Dr	mech/elec	HP c/o	n		TW & Co	$ 100

ORDINANCE AMENDMENT APPLICATION

Town of Montreat Planning and Zoning
1210 Montreat Road, Black Mountain, NC 28711 | (828) 669-8002
REQUIRED FEE: $50.00 (CASH OR CHECK)

INSTRUCTIONS

All applications for amendments to the Town of Montreat's Ordinances must include a completed and signed application and fee, set forth by the Town of Montreat Fee Schedule. Completed applications are submitted to the Town Clerk. All fees must be made payable to the Town of Montreat. Fees are non-refundable except where an application is withdrawn prior to its consideration by the Planning and Zoning Commission. The Zoning Administrator will determine whether the application is complete following its submittal and will notify the applicant via the contact information listed below of the tentative meeting dates that the Planning and Zoning Commission and Board of Commissioners will hear the proposal and of any action taken or decision made concerning this request. All meetings of the Planning and Zoning Commission and Board of Commissioners are open to the public.

APPLICANT INFORMATION

APPLICANT NAME: Mason Blake, Mayor Pro Tem TELEPHONE: 828-669-8002

MAILING ADDRESS: PO Box 423 CITY: Montreat STATE: NC ZIP: 28757

LOCAL ADDRESS: 1210 Montreat Road CITY: Montreat STATE: NC ZIP: 28757

EMAIL: zoning@townofmontreat.org

PROPOSED AMENDMENT

ORDINANCE TO BE AMENDED: ☑ GENERAL ORDINANCE ☐ ZONING ORDINNACE ☐ SUBDIVISION ORDINANCE ☐ WIRELESS COMM. ORDINANCE

CHAPTER, ARTICLE, & SECTION TO BE AMENDED: Chapter K, Article III Section 300, 301, and 309

PROPOSED TEXT IN FULL (ATTACH SHEETS AS NECESSARY): See attached.

STATE THE REASON FOR THE REQUEST (ATTACH SHEETS AS NECESSARY):
To comply with legislative amendments from S.L. 2023-108 & S.L. 2023-137

LIST SUPPORTING & ATTACHED DOCUMENTS:

SIGNATURES AND ACKNOWLEDGEMENT

I, Mason Blake, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Mason Blake — 8-23-24

Signature of Applicant — *Date*

Mason Blake

Printed Name of Applicant

OFFICE USE ONLY

☑ Complete ☐ Incomplete

Kayla DiCristina — 08/23/24

Zoning Administrator Signature — *Date*

Kayla DiCristina

Printed Name of Zoning Administrator

Fee: $0.00 Paid: ☐ Yes ☐ No Payment Method: n/a

Scheduled Planning and Zoning Commission Meeting Date: 10/17/2024*

Scheduled Board of Commissioner Meeting Date: 9/12/2024 & 11/14/2024*

* The Board of Commissioners may opt to not refer this amendment to the Planning and Zoning Commission for review before approval at the Board of Commissioners 9/12/24 meeting.

TOWN OF MONTREAT
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Staff Report
TA-2024-04

Text Amendment Request (TA-2024-04) – A Text Amendment request (TA-2024-04), submitted by Mason Blake (on behalf of the Board of Commissioners) to Chapter K, Article III, Sections 300, 301, and 309 of the Montreat General Ordinance to comply with legislative updates from S.L. 2023-108 for funds for maintenance of stormwater facilities and S.L. 2023-137 for stormwater rules for redevelopment projects.

Created by:

Kayla DiCristina, AICP,
Zoning Administrator
Town of Montreat

Created for:

Town of Montreat Board of Commissioners
September 12, 2024

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REQUEST SUMMARY 3
BOARD OF COMMISSIONERS ACTION 4

REQUEST SUMMARY

The General Assembly convened for their "long session" in January 2023. Their work continued into the Fall of 2023 and produced several noteworthy bills for local development regulation. Of note to the Town of Montreat's Zoning Ordinance are .S.L. 2023-108 and S.L. 2023-137. The University of North Carolina Chapel Hill School of Government prepared guidance for local governments to make necessary changes to comply with new regulations. A link to the full legislative bulletin from the School of Government is provided below. Verbatim excerpts relevant to this text amendment are included below.

https://www.sog.unc.edu/publications/bulletins/2023-north-carolina-legislation-related-planning-and-development-regulation

SL. 2023-108

G.S. 143-214.7 sets out the procedure for DEQ to transfer stormwater permits from developers to owners' associations under certain circumstances. Section 13.1 of S.L. 2023-108 (H.B. 488) makes clear that the same transfer rules apply to local governments.

Local governments have had authority to require financial guarantees for maintenance of private stormwater as outlined at G.S. 160D-925. Section 13 of S.L. 2023-108 (H.B. 488) sets new limits on that authority. With the new provisions, local governments may not require an owner of a private stormwater facility to make payments to the local government for the purpose of that facility's maintenance (including maintenance, repair, replacement, or reconstruction) or that of other stormwater facilities. A local government may require private owners to retain funds for maintenance of the private stormwater facility. Such funds may not exceed ten percent of the cost of construction. Owners get five years to collect and retain funds, starting at the time the stormwater facility is accepted by the local government as built to standard. The local government may require funds to be held in a segregated account for the sole purpose of maintaining the stormwater facility.

If a local government has previously required payments to itself to fund maintenance of private stormwater facilities, those funds must be made accessible to the owners to cover maintenance costs. Any such funds must be exhausted before the local government may assess costs against residential homeowners or homeowner associations.

The Town of Montreat's Stormwater Ordinance includes provisions for financial guarantees for maintenance of private stormwater facilities. Language is proposed to address the legislative changes.

S.L. 2023-137

Back in 2021, the General Assembly amended the statutes regulating development in water-supply watersheds to allow developers to exceed maximum allowable density for redevelopment projects in specific circumstances. S.L. 2021-164 (H.B. 218) added a new subsection (d3) to G.S. 143-214.5 to allow excess density if the property was developed prior to the local water-supply watershed, the property has not been combined with other lots after January 2021, the property has not been part of density averaging, the property's current use is nonresidential, the stormwater from the redevelopment will be treated to applicable standards, and the remaining vegetation will be preserved.

Section 1 of S.L. 2023-137 (H.B. 600) revised that language for redevelopment projects to specify that the stormwater treatment is only required for any net increase in built-upon area. The prior language required stormwater treatment for new *and* existing built-upon area. G.S. 143-214.7(b3) already limited the extent to which stormwater rules applied to redevelopment of existing developed areas (stormwater rules apply only to the net increase in impervious surface). Section 2 of S.L. 2023-137 (H.B. 600) amends that statute to make clear that the preexisting development may be demolished or relocated during the development; stormwater controls still are required only for net increase in impervious surface.

Section 2 of S.L. 2023-137 (H.B. 600) amends that language at G.S. 143-214.7(b2) (2) to state that any portion of the development within the municipal or state right-of-way does not count toward "the entire impervious area of the development."

The Town of Montreat's Stormwater Ordinance does not have language clarifying when stormwater treatment is required when there is qualified redevelopment proposed. Language is proposed to provide that clarification. Additionally, language is proposed to address the clarification regarding right-of-way.

Proposed changes and existing language are provided as supplemental attachments to this staff report.

BOARD OF COMMISSIONERS ACTION

Per Section 160D-601(a) of the North Carolina General Statute, before adopting, amending, or repealing any ordinance or development regulation, the governing body shall hold a properly noticed legislative hearing. This public hearing was noticed in the Black Mountain Newspaper on August 29, 2024, and September 5, 2024. Section 160D-604 of the North Carolina General Statute states that the governing body may refer any development regulation that is proposed to be adopted to the Planning and Zoning Commission for review and comment before making their final decision.

Should the Board of Commissioners not refer this text amendment to the Planning and Zoning Commission, the Board of Commissioners must approve, approve with revisions, or deny the proposed amendments.

The Board of Commissioners may address consistency with the Comprehensive Plan and other matters as deemed appropriate with this text amendment. A link to the Town of Montreat's Comprehensive Plan is provided below.

Montreat Tomorrow Comprehensive Plan

Example Language:

The proposed text amendment [is/is not] consistent with Montreat Tomorrow because…

- [identify policies in Montreat Tomorrow which the amendment is/is not consistent with]
- [identify policies in Montreat Tomorrow which the amendment advances/hinders]

For more information on consistency statements, please review "Plan Consistency and Reasonableness Statements" Guidance prepared by the University of North Carolina – Chapel Hill's School of Government

2023 North Carolina Legislative Session - Suggested Revisions

Key: Text to Remain | New Text | ~~Deleted Text~~

Redevelopment and Stormwater Rules

Section 300(3) Applicability and Exemptions

Nothing in this Ordinance shall require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity. A property owner may elect to treat the stormwater resulting from the net increase in built-upon area above the preexisting development for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in G.S. 143-214.5(d3).

Exclusion of ROW from Impervious Surface MGO Chapter K Article III

301. Interpretations and Definitions

6. When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

Impervious surface: Any surface that, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but are not limited to, gravel, concrete, asphalt or other paving material, and all areas covered by the footprint of buildings or structures. For the purpose of this subdivision, the entire impervious area of a development shall not include any portion of a project that is within a North Carolina Department of Transportation or municipal right-of-way.

Funds for Maintenance of Stormwater Facilities MGO Chapter K Article III

309. Operation and Maintenance Agreement

2. Special Requirement for Homeowners' and Other Associations. For all structural BMPs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

a) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities;

b) Establishment of an escrow account, which can be spent solely for ~~sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction~~ maintenance, repair, replacement, and reconstruction costs of the structural BMPs; If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for ~~sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction~~ maintenance, repair, replacement, and reconstruction costs of the structural BMPs, provided that the Town Administrator or his/her designated Stormwater Administrator shall first consent to the expenditure.

c) Both developer contribution and annual deposits for future use of "sinking funds" shall fund the escrow account. ~~Prior to plat recordation or issuance of construction permits, whichever shall first occur,~~ The owner of the stormwater control and management facility shall by responsible for collecting and retaining the funds. For structural BMPs constructed prior to August 16, 2023, the owner of the stormwater control and management facility shall pay into the account an amount equal to fifteen percent (15%) of the initial construction cost of the structure BMP with two-thirds (2/3) of the total amount of deposited within the first five (5) years following initial construction completion and the full amount being deposited within ten (10) years of initial construction completion. For structural BMPs considered constructed after August 16, 2023, the ~~developer~~ owner of the stormwater control and management facility shall pay into the escrow account an amount equal to ~~fifteen per cent (15%)~~ ten percent (10%) of the initial construction cost of the structural BMPs within five years of the date the Stormwater Administrator or their designee considered the BMP to be constructed;

~~Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural BMPs.~~ Funds shall be deposited each year into the escrow account to cover the cost of maintenance. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

~~d) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town depending on the design and materials of the stormwater control and management facility;~~

d~~e~~) Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs;

e~~f~~) Allowing the Town to recover from the association and its members any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement;

The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

fg) A statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and that the Town shall not be liable to any person for the condition or operation of structural BMPs;

gh) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law; and

hi) A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

ORDINANCE #_____

AN ORDINANCE AMENDING THE TOWN OF MONTREAT ZONING ORDINANCE
TA-2024-04

WHEREAS, the Town of Montreat Board of Commissioners is responsible for adopting and rejecting development ordinance amendments, under Chapter 160D Article 6 of the North Carolina General Statutes; and

WHEREAS, the Town's existing General Ordinance was adopted on March 24, 1999; and

WHEREAS, pursuant to Section 160D-601(a) of the North Carolina General Statutes, the Town of Montreat used the adoption process mandated for zoning text amendments to adopt revisions to the Montreat General Ordinance, which is a development ordinance. A public hearing was noticed on August 29, 2024, and September 5, 2024, in the *Black Mountain News* newspaper and held on September 12, 2024; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF MONTREAT, NORTH CAROLINA THAT:

The following revisions (shown in **bold**) be made to Chapter K Article III Section 300:

Redevelopment and Stormwater Rules

Section 300(3) Applicability and Exemptions

Nothing in this Ordinance shall require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity. A property owner may elect to treat the stormwater resulting from the net increase in built-upon area above the preexisting development for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in G.S. 143-214.5(d3).

The following revisions (shown in **bold**) be made to Chapter K Article III Section 301:

301. Interpretations and Definitions

6. When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

Impervious surface: Any surface that, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but are not limited to, gravel, concrete, asphalt or other paving material, and all areas covered by the footprint of buildings or structures. **For the purpose of this subdivision, the entire impervious area of a development shall not include any portion of a project that is within a North Carolina Department of Transportation or municipal right-of-way.**

The following revisions (shown in **bold**) be made to Chapter K Article III Section 309:

309. Operation and Maintenance Agreement

2. Special Requirement for Homeowners' and Other Associations. For all structural BMPs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

a) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities;

b) Establishment of an escrow account, which can be spent solely for ~~**sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction**~~ **maintenance, repair, replacement, and reconstruction costs** of the structural BMPs; If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for ~~**sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction**~~ **maintenance, repair, replacement, and reconstruction costs** of the structural BMPs, provided that the Town Administrator or his/her designated Stormwater Administrator shall first consent to the expenditure.

c) Both developer contribution and annual deposits for future use of "sinking funds" shall fund the escrow account. ~~**Prior to plat recordation or issuance of construction permits, whichever shall first occur,**~~ **The owner of the stormwater control and management facility shall by responsible for collecting and retaining the funds. For structural BMPs constructed prior to August 16, 2023, the owner of the stormwater control and management facility shall pay into the account an amount equal to fifteen percent (15%) of the initial construction cost of the structure BMP with two-thirds (2/3) of the total amount of deposited within the first five (5) years following initial construction completion and the full amount being deposited within ten (10) years of initial construction completion. For structural BMPs considered constructed after August 16, 2023,** the ~~**developer**~~ **owner of the stormwater control and management facility** shall pay into the escrow account an amount equal to ~~**fifteen per cent (15%)**~~ **ten percent (10%)** of the initial construction cost of the structural BMPs **within five years of the date the Stormwater Administrator or their designee considered the BMP to be constructed**;

~~**Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural BMPs.**~~ Funds shall be deposited each year into the escrow account to cover the cost of maintenance. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

~~**d) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town depending on the design and materials of the stormwater control and management facility;**~~

d~~**e**~~) Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct

structural BMPs;

e~~f~~) Allowing the Town to recover from the association and its members any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement;

The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

f~~g~~) A statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and that the Town shall not be liable to any person for the condition or operation of structural BMPs;

g~~h~~) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law; and

h~~i~~) A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

This ordinance shall be in full force and effect from and after the date of its adoption.

READ, APPROVED, AND ADOPTED this the _____ day of _____, 2024.

_____
Tim Helms, Mayor

_____
Savannah Parrish, Town Manager