

**ARTICLE 1. SHORT TITLE, SCOPE, PURPOSE  
AND INTERPRETATION**

**100        Short Title**

This Ordinance shall be known and may be cited as the "Mountain Lake Park Zoning Ordinance."

**101        Scope**

An Ordinance regulating and restricting the height and size of buildings and other structures; establishing building lines, minimum frontages, depths and areas of lots, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, signs, structures and land for trade, industry, residence, recreation, public activities and other purposes within the Town of Mountain Lake Park, Maryland; and dividing the Town into Districts for regulating the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land; and providing for the administration and enforcement thereof, as said District are shown on a map, adopted as part of this Ordinance and entitled: "Zoning Map of Mountain Lake Park, Maryland."

**102        Purpose**

The purpose of this Ordinance is to promote the public health, safety, morals and the general welfare of the present and future inhabitants of Mountain Lake Park, Maryland by:

- A.        Encouraging the most appropriate use of land.
- B.        Preventing the overcrowding of land.
- C.        Conserving the value of land and buildings.
- D.        Lessening congestion in the roads and streets.
- E.        Avoiding undue concentration of population.
- F.        Providing for adequate light and air.
- G.        Promoting the conservation of natural resources.
- H.        Preventing environmental pollution.
- I.        Promoting health and general welfare.

- J. Securing safety from the danger of fire, panic and other dangers.
- K. Facilitating the adequate provision of transportation, parking, water, sewerage and other public facilities
- L. Giving reasonable consideration, among other things, to the character of a district and its peculiar suitability for particular uses.
- M. Giving effect to the policies and proposals of the Comprehensive Development Plan for Mountain Lake Park, Maryland.

**103 Interpretation**

Rule of interpretation and application: The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, morals, safety, comfort, convenience and general welfare. The provisions of this Ordinance shall prevail when they impose greater restrictions than are imposed or required by statute, other ordinance, rule, regulation, permit or by any easement, covenant, or agreement between the parties. Conversely, when the provisions imposed by a statute, other ordinance, rule, regulation or permit, or by any easement covenant or agreement are more restrictive than the provisions of this Ordinance, the provisions of such statute, other ordinance, rule, regulation, permit, easement, covenant or agreement shall prevail.

**104 Repeal of Other Ordinances**

Previous ordinances, resolutions, rules and regulations adopted by the Mayor and Town Council of Mountain Lake Park are hereby repealed to the extent that they conflict with or impose less restrictive standards than the provisions of this Ordinance. Specifically, the Mountain Lake Park Zoning Ordinance enacted April 27, 1989, along with all revisions and amendments thereto, and the Mountain Lake Park Zoning Ordinance enacted January 30, 2002, along with all revisions and amendments thereto, are hereby repealed in full.

**ARTICLE 2. DEFINITIONS**

**200        General**

Unless otherwise expressly stated, the following words and phrases shall be given the meaning and interpretation set forth below for the purposes for this Ordinance.

- A.     Words used in the present tense include the future.
- B.     The singular number includes the plural, and the plural the singular.
- C.     The word "person" includes a corporation, institution, partnership, trust, association or any other legal entity, as well as an individual.
- D.     The word "lot" includes the word "plot" or "parcel".
- E.     The word "shall" is always mandatory; the word "may" is permissive.
- F.     The word "used" or "occupied" as applied to any land or building, include the words "arranged or designed to be used or occupied."
- G.     The word "Council" and the words "Town Council" mean the Town Council of Mountain Lake Park, Maryland.
- H.     The word "Commission" and the words "Planning Commission" mean the Municipal Planning Commission of Mountain Lake Park, Maryland.
- I.     The word "Board" means the Board of Appeals of Mountain Lake Park, Maryland.
- J.     The word "Town" means the Mayor and Town Council of Mountain Lake Park, Maryland.
- K.     Any word or term not defined herein shall be used with a meaning of standard usage.

**201        Accessory Use or Building**

A subordinate use, building or structure customarily incidental or subordinate to, and located on the same lot as the main use or building. The term Accessory Building includes, but is not limited to, private garages, gardens or barns, playhouses, greenhouses, swimming pools, outside furnaces, tennis courts, pavilions, gazebos, patios, storage buildings, tree-houses, workshops and hot tubs. By special exception, this also applies to uses which are not on the same lot as the main use or building.

**202      Abandoned Vehicle**

Any vehicle which is not in operable condition (not capable of being driven) and has not been in operable condition for more than thirty (30) days. Any vehicle which has not been registered with the Maryland Department of Motor Vehicles and for which tags have not been issued for more than thirty (30) days constitutes an abandoned vehicle.

**203      Adult Use**

A use involving one or more of the following:

- A.      Adult Bookstore A use with more than one percent (1%) of the market value of all items offered for sale or rent being adult materials.
  - 1. "Adult materials" shall be defined as books, films, videotapes (including those offered on coin or token operated machines), magazines or similar printed materials, and/or paraphernalia which is distinguished or characterized by a clear emphasis on the depiction, display or description of uncovered male or female genitals.
  
- B.      Adult Live Entertainment Use A commercial use or club (including a private club) involving employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation or remuneration paid or to be paid to the entity operating the use or to persons involved in such display (including tips, gratuities, free food or drink or any other compensation or remuneration whatsoever).
  
- C.      Adult Theater A use involving the display of film or videotape "adult materials" to any person or persons in a room and that is related to some form of monetary payment by the person or persons viewing such matter, or compensation, in any form whatsoever, direct or indirect, to the person or persons showing such film, videotape or "adult materials."
  
- D.      Massage Parlor A use in which manipulative exercises using the hands or a hand-held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private rooms, and that is related to some form of monetary compensation paid by the person(s) receiving the massage. This use shall not include any of the following:
  - (i) massages by State-licensed massage therapists or health care professionals;
  - (ii) massages involving persons who are related to each other; (iii) massages within a licensed hospital or nursing home; (iv) hand massages of the face, hands or feet; or (v) therapeutic massages that are clearly incidental to a permitted exercise club or municipal, college or high school athletic program.

**204      Agriculture**

The cultivation of soil and the raising and harvesting of products of the soil, including the raising and keeping of livestock (cattle, sheep, goats, horses, poultry, emus and alpacas are specifically prohibited as well as is any other animal if kept for commercial purposes) excluding household pets. This definition does not include home vegetable gardens if at least ten (10) feet from any property boundaries.

**205      Alley**

A minor way which is used primarily for vehicular service access to the back or the sides of a parcel otherwise abutting a street.

**206      Alterations**

As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

**207      Area**

207.1 Building Area: The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, excluding cornices, unroofed porches, paved terraces, steps, eaves and gutters.

207.2 Lot Area: The area contained within the property lines of an individual lot including the area within all easements, but excluding the area within all street rights-of-way.

**208      Automotive Service Station**

Buildings and premises where gasoline is sold and/or oil, grease, batteries, tires and automobile accessories, or any combination thereof, are sold at retail or normal mechanical repairs are conducted but not including body work, painting, spraying or welding or storage of automobiles not in operating condition.

**208A      Basketball Hoop**

Any part of a backboard, hoop, net or supporting apparatus designed or intended to be used for play with a ball of any kind.

**209      Bed and Breakfast Home**

Bed and breakfast home means a single-family, owner-occupied dwelling which is used

for the lodging of transient guests, none of whom remain for more than five consecutive nights each, and which provide no food or beverage service for the transient guests other than for breakfast provided in the areas of the dwelling generally utilized by the resident family for the consumption of food.

**210 Building**

A combination of materials having a roof, to form a structure for the shelter of persons, animals or property. The word "building" shall include any part thereof

210.1 Building Accessory: A building subordinate to the principal building on the same lot and used for purposes customarily incidental to those of the principal building. By special exception, this also applies to uses which are not on the same lot as the main use or building.

210.2 Building Principal: A building in which is conducted or intended to be conducted the principal use of the lot on which it is located.

**211 Building Coverage**

The percentage of the lot covered by the building.

**212 Building Height**

A building's vertical measurement from the mean level of the ground abutting the building to a point midway between the highest and lowest points of the roof.

**213 Building Setback Lines**

The line of the minimum yards, as herein designated for each district, as measured from the lot lines.

**214 Debris**

Anything which is broken or dismantled, the remnants of anything which is broken or dismantled, or any parts or pieces thereof "Debris" also includes pieces of broken trees, bushes, or shrubbery.

**215 Discarded Materials**

Anything which has been discarded. Anything which is not intended for use out of doors, and which is left out of doors for more than twenty-four (24) hours unless awaiting pickup by the Town or regularly scheduled private trash collectors, shall be considered "Discarded Material" under this definition.

**216 Dwelling**

A building, or portion thereof, arranged or designed to provide living facilities for one or more families.

216.1 Dwelling Unit: A dwelling or portion thereof providing complete living facilities for one family, excluding rooming, boarding or lodging houses, or hotels, motels, tourist homes or other similar places offering overnight accommodations for transients.

216.2 Single Family Detached Dwelling: A building, commonly known as a single family house, designed for and occupied exclusively as a residence, comprising one dwelling unit from ground to roof and open space on all sides. Where a private garage is structurally attached to such a dwelling, it shall be considered a part thereof

216.3 Two Family Detached "Duplex" Dwelling: A single building intended and designed to be occupied as a residence by two families living independently of each other as separate housekeeping units.

216.4 Single Family Attached "Townhouse" Dwelling: A portion of a building designed for an occupied exclusively as a residence for only one family and comprising (1) only one dwelling unit from ground to roof, and (2) two points of independent outside access; and (3) at least two other dwellings built in conjunction therewith, and (4) any portion of one or two walls in common with an adjoining dwelling.

216.5 Multi-Family "Apartment" Dwelling: A building, except a building containing townhouse dwellings, containing three or more dwelling units and designed to be occupied by three or more families living independently of one another.

216.6 Sectional "Double-wide" Dwelling: A single family detached dwelling unit designed for permanent occupancy, manufactured in two or more sections and transported to a building site in sections which are fastened together and mounted on a permanent foundation ready for occupancy except for minor and incidental unpacking and assembly operations (called a manufactured home in the Federal Act). These homes have a permanently affixed HUD label.

216.7 Modular Dwelling: (also known as Industrialized Building under Public Safety Article, Section 12-301, Annotated Code of Maryland, or any amendment thereto or any successor statute) means a building assembly or system of building assemblies manufactured in its entirety, or in substantial part, offsite with permanently affixed state certification insignia and transported to the point of use for installation or erection. Modular Dwellings must be certified under Public Safety Article, Section 12-309, Annotated Code of Maryland, or any amendment thereto or any successor statute, and

generally resemble "stick-built" homes. These dwellings must be constructed on poured concrete, conventional block or equivalent foundations. Plans for these dwellings must be submitted to the Mayor and Town Council of Mountain Lake Park for approval. Modular building does not include open frame construction, which can be completely inspected onsite. Modular building does not include a mobile home or double-wide dwelling.

**217      Family**

One or more persons occupying a single-dwelling unit, provided that unless all members are related by blood, marriage, legal adoption or foster child arrangement, no such family shall contain over three persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a part of the family or families.

**219      Home Professional Home Occupation**

A business or avocation conducted within the home or office or business located within the home from which income is derived or can be expected, and which is clearly secondary to the use of the home as a dwelling. Where the business, avocation or office is the main use of the building, or is equal in intensity to its use as a dwelling, it shall not be considered a Home Professional Office or Home Occupation.

**220      Hotel, Motel or Motor Hotel**

A building or group of buildings for the accommodation of transient guests containing guest rooms for rent.

**221      Household Pets**

Household pets includes dogs, cats and small birds such as parakeets or any other animal, excluding those specifically prohibited in Section 204, of which is kept entirely indoors.

**222      Junk**

Any form of personal property which is no longer functional or usable for the purpose for which it was intended and includes any appliance, hardware, toy, game, furniture or any other personal property which is not legally stored within a building and which is not fully operable. "Junk" includes any personal property left out of doors for more than twenty-four (24) hours, unless the purpose of such property is for out of door use.

**223      Junk Vehicle**

Any vehicle which is not in operable condition and which is not intended to be placed in operable condition in the future. Any vehicle which is used to scavenge parts or from which any parts have been taken constitutes a junk vehicle.

**224      Junkyard**

Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, parked, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawnshops and establishments. Areas where household equipment, used cars in operable condition, salvaged machinery and used, discarded or salvaged materials as part of manufacturing operations are stored are exempted.

**225      Lot**

A plot or parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way.

225.1 Lot Corner: A lot abutting two or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five degrees.

225.2 Lot Width: The width of a lot measured at the building setback line.

225.3 Record Lot: The land designated as a separate and distinct parcel of land on a legally recorded deed filed among the Land Records of Garrett County.

**226      Lot Line**

Any boundary line of a lot.

226.1 Lot Line Front: The street line, which shall be the same as the legal right-of-way line, provided that along streets for which a future right-of-way width is designated in the legally adopted transportation element of the Town's Comprehensive Development Plan, the front lot line shall be the future right-of-way line thus established.

226.2 Lot Line Rear: Any lot line which is parallel to or within forty-five degrees of being parallel to a street line, except for a lot line that is itself a street line, and except that in the case of a corner lot the owner shall have the option of choosing which of the two lot lines that are not street lines is to be considered a rear lot line. In the case of a lot

having no street frontage or a lot of an odd shape, only the one lot line furthest from any street shall be considered a rear lot line.

226.3 Lot Line Side: Any lot line which is not a street line or a rear lot line.

**226A**     **Miscellaneous Use**

Other use substantially similar in character and impact to uses ordinarily permitted in this zoning ordinance by right or special exception within the same zoning district.

**227**     **Mobile Home**

A single-family dwelling unit manufactured in one or more complete sections, designed for long-term occupancy, which may contain sleeping accommodations, a flush toilet, a bathtub or shower, and kitchen facilities, plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels, or on flatbed or other trailers; arriving at the site where it is intended to be occupied as a complete dwelling, which may include major appliances and furniture, and ready for occupancy except for incidental unpacking and assembly operations. For purposes of this Ordinance, sectional homes and travel trailers are not considered as mobile homes.

**228**     **Nonconforming Status**

A nonconforming status is that status achieved by a building, structure, or use of a building, structure, or land, which is not in conformance with these regulations, but which is permitted under the provisions of Article 8, to continue because it was lawfully in existence upon the effective date of the adoption of this Ordinance. No otherwise nonconforming building or structure shall be allowed to exist and no use shall be permitted to continue unless it is deemed to have achieved nonconforming status, and such status may be forfeited as provided for by this Ordinance.

**229**     **Nonconforming Structure or Lot**

A building, structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for off-street parking, off-street loading or accessory buildings, but which building, structure or lot was lawfully in existence at the effective date of this Ordinance.

**230        Nonconforming Use**

A use of a building, structure, or lot which does not conform to use regulations prescribed by this Ordinance for the district in which it is located, but which was lawfully in existence at the effective date of this Ordinance.

**231        Poultry**

Poultry shall include chickens, ducks, turkeys, geese, pigeons, and shall also include game birds such as pheasant, chuckers, quail, grouse or any other fowl which is kept for any commercial purpose including breeding.

**231A      Residential Living Facility**

A. "Residential Living Facility" means a residence that:

1. Provides residential services for individuals who require specialized living arrangements;
2. Admits up to eight individuals; and
3. Provides resident supervision.

B. See provisions for modifications in subsection 1005-E.

**231B      Renewable Energy Source**

Any method, process, or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy, and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes. Also see "solar energy systems, accessory," and "solar power plant."

**231B.1 Solar Energy Systems, Accessory:**

Includes any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**231B.2 Solar Power Plant:**

A mid- or utility-scale commercial facility comprised of one or more freestanding, ground-mounted devices that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST) or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity.

**231B.3 Concentrating Solar Thermal Devices:**

Also known as "concentrated solar thermal power (CST)" are systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat Source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine.

**231B.4 Photovoltaics:**

A technology that converts light directly into electricity. Photovoltaic (PV) systems and concentrated photovoltaic (CPV) systems are included within this definition.

**232 Rooming, Boarding or Lodging House**

A building or part of a building (other than an institutional building) occupied or intended to be occupied by three or more roomers, boarders or lodgers. A "rooming, boarding or lodging house" shall not be deemed a home occupation.

**232A Senior Center**

A federal, state, or local government sponsored facility serving the health and social needs of households where at least one individual is 62 years of age or older, but including non-senior individuals with disabilities.

**232B Senior Multi-Family Housing**

A federal, state, or local government sponsored facility serving the housing needs of households where at least one individual is 62 years of age or older, but including non-senior individuals with disabilities.

**233 Sewer**

A pipe or other facility for collection, holding or transmitting sewage.

**233.1 Centralized Sewage Disposal System:** A utility system, serving two or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated for the collection, transportation, treatment and disposal of sewage, in compliance with County and State health regulations.

**233.2 Private Sewage Disposal System:** A system of sewers, pipes, treatment tanks or other facilities serving only a single dwelling unit or a single business, commercial, industrial or other establishment, which is designed and operated for the collection, treatment and disposal of sewage in compliance with county and State health regulations.

**234      Sign**

Any board, placquard or device which contains a notice, message or depiction, either in written script or by pictures or symbols intended to advertise, admonish, identify, notify, or simply display itself A "sign" shall include any type of artistic rendering. Any permanent or temporary structure or part thereof, or any device attached to, painted or represented directly or indirectly on a structure or other surface, that shall display or include any letter, work, insignia, flag, or representation used, as, or which is the nature of, an advertisement, announcement, visual communication, direction, or is designed to attract the eye, or bring the subject to the attention of the public. Flags of any governmental unit or branch of any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property, and cornerstones built into or attached to a wall or a building are excluded.

234.1 On-Premises Sign: A sign which directs attention to a person, business, profession, home occupation or activity conducted on the same lot.

234.2 Off-Premises Sign: A sign which directs attention to a person, business, profession, product, home occupation or activity not conducted on the same lot.

**234A      Electronic Message Center Sign**

An electronically activated changeable sign and display whose variable message capability can be electronically programed. An Electronic Message Center Sign may have patterned illusionary movement whereby illuminations of the sign or portions of the sign are characterized by simulated movement through alternated or sequential activation of various illuminated elements.

**235      Special Exception Use**

A use for which the Board of Appeals has granted a Special Exception following a public hearing and findings of fact consistent with the provisions of this Ordinance, and provided the use complies with specified conditions and standards outlined in his Ordinance, or imposed by the Board of Appeals.

**236      Street**

A public or private way used or intended to be used for passage or travel by automotive vehicles. If private, such way must be used or intended to be used as the principal means of access to an abutting lot or lots, or to more than two dwellings on a lot on which a private way is exclusively used.

**237      Street Line**

The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way provided that where a future right-of-way width for a street is officially established in any Town Subdivision Regulation, Ordinance or Resolution, then the street line shall be the side of the future right-of-way so established.

**238      Structure**

A combination of material assembled, constructed or erected at a fixed location, the use of which requires location on the ground or attachment to something having location on the ground. The word "structure" shall include any part thereof.

**238A    Transient Rental Housing**

A use which is referred to as a room or suite of rooms which is occupied not as a principal residence and:

- A.    Is a single-family dwelling; or
- B.    Multi-family dwelling; and
- C.    Has 11 or fewer sleeping rooms available for rent or for hire for transient occupancy by registered guest; and
- D.    Is rented by persons for periods of less than 30 consecutive days.

**239      Travel Trailer**

A vehicular or portable structure designed as a temporary dwelling for travel, recreation, vacation and other short-term uses, and having a body width not exceeding eight feet and a body length not exceeding thirty-two feet.

**240      Travel Trailer Park**

A parcel of land or part thereof occupied by or designed for transient occupancy by one or more travel trailers or recreational vehicles and/or units.

**241      Use**

241.1 Use: Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

241.2 Use Accessory: A use located on the same lot with a principal use, and clearly incidental or subordinate to, and customary in connection with, the principal use. By special exception, this also applies to uses which are not on the same lot as the main use or building.

241.3 Use Principal: The main use on a lot.

**242 Variance**

Permission to use or alter, modify or relocate land, buildings, or structures which when granted puts them at variance or in conflict with one or more of the provisions of this Ordinance.

**243 Veterinary Office or Animal Hospital**

Any building or structure used professionally by a veterinarian or for the treatment, housing or limited boarding of small domestic animals such as dogs, cats, goats, rabbits and birds or fowl.

**244 Water**

244.1 Centralized Water Supply System: A utility system serving two or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated to supply potable water, in compliance with County and State health regulations.

244.2 Private Water Supply: A utility system serving only one dwelling unit or a single commercial, business, industrial or other establishment, which is designed and operated to supply potable water, in compliance with County and State health regulations.

**245 Yard**

A portion of a lot adjoining and extending inward from a lot line or street line, and which shall remain unobstructed by buildings or structures or portions thereof except overhanging eaves, gutters, or cornices.

245.1 Yard front: A yard line adjoining and extending parallel to a street line.

245.2 Yard Side: A yard adjoining and extending parallel to a side lot line and lying between a front yard and a rear yard.

245.3 Yard Rear: A yard adjoining and extending parallel to a rear lot line.

**ARTICLE 3. ESTABLISHMENT OF DISTRICTS, ZONING MAP AND BOUNDARY INTERPRETATION, ZONING FOR ANNEXED AREAS**

**300 Establishment of Districts**

A. For the purpose of these regulations, the Town is hereby divided into Districts, which are established as follows:

- TR Town Residential
- SR Suburban Residential
- C Commercial
- PD Preservation District
- AR Agricultural Resource Area
- R Rural Area
- SW Special Water Resource District

B. Every parcel of land and every building or structure in the Town shall be subject to the regulations, restrictions and requirements specified for the district in which it is located.

**301 Zoning Map**

- A. For the purposes of this Ordinance, the zoning districts established by Section 300 above, shall be of the number, size, shape and location shown on the "Mountain Lake Park Zoning Map" which is hereby adopted and included in its entirety as a part of this Ordinance, along with all current amendments, notations, explanatory matters, dimensions, references, and designations shown thereon.
- B. Regardless of the existence of copies of the Zoning Map which may from time to time be made or published, the official Zoning Map which shall be maintained in the office of the Zoning Administrator, or, in the alternative, by any person designated by the Mayor, shall be that which included the latest changes and amendments thereto by the Town Council as provided for herein and it shall be the final authority as to the current zoning and/or use status of land, buildings, and structures within the Town.

**302 Interpretation of District Boundaries**

The following rules shall apply for interpreting the location of the zoning district boundary lines drawn on the Zoning Map:

- A. Boundaries drawn approximately along the center-lines of streams, drainage way, streets, roads, alleys, or railroads or other rights-of-way shall be construed to follow such center lines.

- B. Boundaries drawn approximately parallel to the center lines of streams, drainage ways, streets, roads, alleys, or railroads or other rights-of-way, or parallel to property lines shall be construed to lie parallel to such center lines or property lines at the distance therefrom noted upon the Zoning Map.
- C. Boundaries drawn approximately along platted lot lines or other property lines shall be construed to follow such lines.
- D. The location of boundaries otherwise in question shall be determined by the dimensions or notations upon the Zoning Map.
- E. In unsubdivided property or where a district boundary line divides a lot, the location of any such boundary (unless the same is indicated by dimensions shown on said map) shall be determined by use of the scale shown upon said map and scaled to the nearest foot.

**303 Newly Annexed Areas**

- A. All areas to be annexed to the Town after the effective date of this Ordinance shall automatically be zoned according to the provisions of Article 23A, Section 9(c) of the Annotated Code of Maryland, or any amendment thereto or any successor statute. Such areas shall automatically be classified in a zoning category in accordance with their designation on the Garrett County Master Plan or in the closest zoning category thereto available under this Ordinance, provided that the Mayor and Town Council may, after public notice and hearing, provide for the classification of such annexed areas or parts thereof in another zoning district or districts, effective upon the date of such annexation, subject to the provisions of Article 23A, Section 9(c) of the Annotated Code of Maryland, or any amendment thereto or any successor statute.
- B. If the Mayor and Town Council do not provide in advance for the zoning classification of newly annexed areas in the manner provided in subsection A, above, the Planning commission may, within six months of the date of such annexation, prepare and recommend to the Mayor and Town Council Comprehensive Development Plans and recommendations for the appropriate zoning classification(s) for such annexed areas, taking into account the requirements of Article 23A, Section 9(c) of the Annotated Code of Maryland, or any amendment thereto or any successor statute.

**ARTICLE 4. USE REGULATIONS**

**400     Applicability of Regulations**

- A.     Unless otherwise provided by law or specifically by this Ordinance, no land, building or structure shall be used, or occupied for the purpose of a use, unless that use is specifically permitted in the zoning district in which the land, building or structure is located, under the provisions of this Article.
  
- B.     No building or structure shall be located on any lot within the Town unless for a use permitted in the zoning district in which that lot is located by the provisions of his Article, nor shall any building or structure be used unless its location is in conformance with the provisions of this Article, and Articles 5 and 6 governing dimensional requirements and off-street parking and loading.

**401     Uses by Right Uses not Permitted and Uses by Special Exception**

- A.     A use listed in Section 405 of this Ordinance is permitted by right in any zoning district under which it is denoted by the letter "P", provided that such use shall be subject to the conditions and requirements specified in Section 405 and elsewhere in this Ordinance.
  
- B.     A use listed in Section 405 of this Ordinance shall not be permitted in any zoning district under which it is denoted by the letter "N". Such uses lawfully existing at the effective date of this Ordinance shall be governed by the provisions of Article 8 of this Zoning Ordinance.
  
- C.     A use listed in Section 405 may be permitted as a Special Exception in any zoning district under which it is denoted by the letters "SE" provided that approval for said use has been granted by the Board of Appeals pursuant to Article 10, and further provided that said use shall be subject to the conditions and requirements specified in Section 405 and elsewhere in this Ordinance and to such further requirements as the Board of Appeals may establish in granting the Special Exception.

**402     Uses Subject to Other Regulations**

- A.     Uses permitted by right or by Special Exception shall be subject, in addition to the requirements of the Use Regulations set forth in this Article, to such other regulations governing yards, lot size, lot width, building coverage, height, off-street parking, and to such other provisions as are specified in the various articles hereof.

- B. No use shall be permitted except in compliance with the laws of the State and the regulations of the Garrett County Health Department regarding water supply and waste disposal. No zoning permit shall be issued until approval is obtained from the Garrett County Health Department for water supply and waste disposal.

**403 Pre-existing Special Exception Uses**

Any use lawfully existing on the effective date of this Ordinance, which is classified as requiring a Special Exception in the zoning district in which it is located, **and which has not** been granted a Special Exception by the Board of Appeals, shall be (deemed to have been granted a Special Exception) governed by the provisions of Article 8, Nonconforming Uses.

**404 Temporary Accessory Uses**

- A. The Zoning Administrator may grant a permit for a nonconforming temporary building or use incidental to a construction project when such building or use is reasonably required for such project, as provided in subsection 901-B hereof
- B. Such permit shall be granted an initial period of not more than six months and may be renewed for a period not exceeding an additional six months.

**405 Table of Use Regulations**

<b>AGRICULTURAL USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(1) Agricultural	N	N	N	N	P	P	N
<b>RESIDENTIAL USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(2) Single-Family Dwelling. In PD subject to review and approval by the Historic Review Board.	P	P	P	P	P	P	N
(2A) Single-Family Modular Dwelling. In PD subject to review and approval by the Historic Review Board.	SE	P	P	P	P	P	N
(3) Single Family Dwelling -"Double Wide" Dwelling	N	SE	SE	SE	SE	P	N
(4) Two-Family Detached Dwelling --("Duplex") Dwelling	N	SE	SE	N	SE	P	N
(5) Single-Family Attached Dwelling -("Townhouse") Dwelling	N	SE	SE	N	SE	P	N
(6) Mobile Home	N	N	N	N	N	P	N
(7) Conversion of Home to Two Dwelling Unit -Conversion of a single-family dwelling or other building into not more than two dwelling units, provided that the resulting dwelling complies with the lot area per dwelling unit and the yard, building and other requirements applicable to two-family detached dwellings, including parking, as provided by this Ordinance, and further provided that the conversion requires no structural alteration of the building's exterior, or fundamental modification of its appearance, unless the same shall be approved by the Zoning Administrator.	N	N	N	N	N	P	N
(8) Multi-Family ("Apartment") -Provided that:	N	SE	SE	N	SE	P	N
(a) Building Orientation: Minimum horizontal distance between facing walls of any two buildings on one lot shall be 50 feet; and							
(b) Development Access: Multi-family dwellings shall be located on and have direct access to a major collector or minor collector street as designed in the Town's Comprehensive Development Plan; and							
(c) Off Street Parking Design Requirements:							
(i) All off street parking lots and their access drives shall be at least ten (10) feet from any principal building; and							

**RESIDENTIAL USES** **PD TR SR C AR R SW**

(ii) No one area for off-street parking of motor vehicles shall exceed twenty (20) automobiles in capacity. Separate parking areas on a lot shall be physically separated from one another except for access drives or streets by eight-foot (8') planting strips. This provision does not apply to Senior Multi-Family Housing or Senior Center.							
(9) Dwelling Unit in combination with commercial use	N	SE	SE	P	SE	P	N
(10) Rooming, Boarding or Lodging House	N	SE	SE	P	SE	P	N
(11) Bed and Breakfast Home. In PD subject to review and approval by the Historic Review Board	SE	SE	SE	P	SE	P	N
(11A) Transient Rental Housing	SE	SE	SE	SE	SE	SE	N
(12A) Senior Multi-Family Housing	N	P	SE	P	SE	SE	N
(12B) Senior Center	N	P	SE	P	SE	SE	N
(12C) Residential Living Facility	P	P	P	P	P	P	N
(a) A residential living facility meeting the requirements of this Section shall house a maximum of 8 unrelated persons, in addition to any staff-persons necessary to assist and supervise such persons.							
(b) A minimum of 1 off-street parking space shall be provided for each employee on-site during peak periods. Plus 1 additional space for each resident having a registered vehicle.							
(c) A copy of any relevant Federal, State or County license or certification shall be provided to the Zoning Administrator. The Zoning Administrator shall be notified in writing within 7 days by the operator if the use of such license or certification is suspended, expired or withdrawn, or if there is a significant change in the type of residents housed.							
(d) The residential living facility shall apply for and obtain a Zoning Permit. The permit application shall state the maximum number of residents, general type of treatment/care, level of staffing, any sponsoring agency and a phone number and address of a responsible supervisor of the use.							

<b>RESIDENTIAL USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(e) Any medical or counseling services on-site within a residential district shall be limited to a maximum of 3 persons who do not live on-site.							
(f) If a residential living facility is within a residential district:							
(i) it shall be maintained and/or constructed with a clearly residential appearance; and							
(ii) no exterior signs shall identify the use.							
(g) If a residential living facility is within PD it shall be constructed and manufactured so as to be compatible with other dwellings in the area. This determination shall be made by the Mountain Lake Park Historic Review Board.							

<b>INSTITUTION, RECREATIONAL AND EDUCATIONAL USE</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(13) Commercial or Public Campground and/or camping sites whether or not offered for rent.	N	N	N	N	N	P	N
(14) Churches and other places of worship	SE	SE	SE	SE	SE	P	N
(15) Cemeteries	N	N	N	N	N	P	N
(16) Schools, including religious and non-sectarian, denominational, or private:	N	SE	SE	P	SE	P	N
(a) A lot area of not less than one acre shall be required; and							
(b) No part of any building shall be located less than 50 feet from any adjoining lot line in separate ownership.							
(17) Day nursery, nursery school or other agency giving day care to children, provided that:	N	N	N	SE	SE	P	N
(a) The use shall be conducted in a building designed for day care occupancy; and							
(b) Any outdoor play areas shall be sufficiently screened and sound insulated so as to protect the neighborhood from noise and other disturbance. To fulfill this requirement, screening must be located in an area approved by the Zoning Administrator.							
(18) Trade, professional, music or dancing school	N	N	N	SE	N	P	N
(19) Library or museum	N	N	N	SE	N	P	N
(20) Community center, adult education center, religious camp meetings or other similar facility operated by an educational, philanthropic or religious institution, provided no outdoor active	N	N	SE	SE	N	P	N

**INSTITUTION, RECREATIONAL AND EDUCATIONAL USES**      **PD** **TR** **SR** **C** **AR** **R** **SW**

recreation shall be located nearer to any lot line than the required yard depth.

- (21) Recreation facility, provided that:
  - (a) If the facility includes a swimming pool, the pool, including the apron, filtering and pumping equipment and any related buildings, shall be at least 50 feet from any lot line: and
  - (b) Outdoor recreation areas, including pools, shall be sufficiently screened and sound-insulated so as to protect the neighborhood from glare, noise and other disturbances.
  - (c) Any non-commercial greenhouse, tool shed, private garage, swimming pool or similar accessory structure and other structures shall be permitted in a recreation area that existed prior to the effective date of this ordinance.
  
- (22) Private club or lodge
  
- (23) Golf course, provided all buildings and golf greens and tees shall be located not less than seventy-five feet from any lot line.
  
- (24) Golf driving range, provided that:
  - (a) A lot area of not less than fifteen acres shall be required; and
  - (b) All buildings and tees shall be located not less than 75 feet from any lot line; and
  - (c) All lighting and activity areas shall be sufficiently screened so as to protect the neighborhood from glare, noise and other disturbance.
  
- (25) Orphanage, licensed hospital, nursing home or other licensed establishment for the care of sick, aged, crippled or convalescent persons; charitable organizations or philanthropic institutions, provided that:
  - (a) Hospital:
    - (i) A lot area of not less than two acres shall be required; and
    - (ii) All buildings shall be located not less than 50 feet from any lot line.
  - (b) Nursing home where not more than 10 persons are cared for:
    - (i) A lot area of not more than 1/2 acre shall be required; and
    - (ii) All buildings shall be located not less than 25 feet from any lot line.
  - (c) Nursing home where (eleven) 11 or more persons are cared for:
    - (i) A lot area of not less than 1/2 acre plus 1,000 square feet for each person above 11 persons shall be required; and

**INSTITUTION, RECREATIONAL AND EDUCATIONAL USES**      **PD** **TR** **SR** **C** **AR** **R** **SW**

(ii) All buildings shall be located not less than 25 feet from any lot line.

(26) Public building owned or operated by the Town of Mountain Lake Park. In PD subject to review and approval by the Historic Review Board	SE	SE	SE	P	SE	P	N
(27) Fire station	N	N	N	P	N	P	N
(28) Rescue Squad	N	N	N	P	N	P	N
(28A) Senior Center	N	P	SE	P	SE	SE	N

**RETAIL, COMMERCIAL, AND INDUSTRIAL SERVICE USES**      **PD** **TR** **SR** **C** **AR** **R** **SW**

(29) Office or clinic for medical or dental examination or treatment of a person as out-patients, including laboratories accessory thereto.	N	N	N	P	N	P	N
(30) Physical therapy, tanning salons, beauty shops, and nail salons.	N	N	N	P	N	P	N
(30A) Tattoo parlors and licensed massage studios.	N	N	N	N	N	P	N
(31) Business, professional or governmental office	N	N	N	P	N	P	N
(32) Retail shop and store	N	N	N	P	N	P	N
(32A) Shops and stores specializing in electronic cigarettes and vaping products.	N	N	N	N	N	P	N
(32B) Medical marijuana (growing/processing/dispensing)	N	N	N	N	N	P	N
(33) Service business	N	N	N	P	N	P	N
(34) Bank, savings and loan association	N	N	N	P	N	P	N
(35) Eating place for food and beverages shall be located on and have direct access to an arterial road as designated in the Mountain Lake Park Comprehensive Development Plan	N	N	N	P	N	P	N
(36) Newspaper printing establishment	N	N	N	P	N	P	N
(37) Motel, hotel	N	N	N	P	N	P	N

<b>RETAIL, COMMERCIAL, AND INDUSTRIAL SERVICE USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(38) Entertainment and recreation facilities operated as a gainful business within a building	N	N	N	P	N	P	N
(39) Veterinary office or animal hospital, provided that:	N	N	N	P	N	P	N
(a) A lot area of not less than two acres shall be required; and							
(b) No building or structure used for boarding or exercising animals shall be within 200 feet of any lot line; and							
(c) The use shall be sufficiently screened so as to protect the neighborhood from excessive noise and other disturbance.							
(40) Funeral home or mortuary	N	N	N	P	N	P	N
(41) Residential parking garage or parking area, provided that:	N	N	N	P	N	P	N
(a) Such uses shall be permitted only when necessary to provide off-street parking for the vehicles of residents in nearby dwellings; and							
(b) Such use shall meet all design standards of Article 6.							
(42) Automotive service station, provided that:	N	N	N	P	N	P	N
(a) All activities, except those to be performed at the fuel pumps, shall be performed within a completely enclosed building; and							
(b) Fuel pumps shall be at least 20 feet from any street rights-of-way; and							
(c) All automobile parts, dismantled vehicles and similar articles shall be stored within a building: out of sight, and							
(d) Full body paint spraying or body and fender work shall not be permitted.							
(43) Automobile self-service or mini-service gas station-subject to the requirement that fuel pumps shall be at least 20 feet from any street right-of-way	N	N	N	P	N	P	N
(44) Sale or rental of automobiles and other motor vehicles	N	N	N	P	N	P	N
(45) Sale of automotive accessories, parts, tires, batteries and other supplies	N	N	N	P	N	P	N
(46) Repair garage, including paint spraying and body and fender work or car washing facilities, provided that all repair and paint work is performed within an enclosed building	N	N	N	P	N	P	N
(47) Car washing facilities	N	N	N	P	N	P	N

<b>RETAIL, COMMERCIAL, AND INDUSTRIAL SERVICE USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(48) Adult Uses	N	N	N	N	N	P	N
(49) Racing or recreational facility for any type of motorized vehicle or watercraft	N	N	N	N	N	N	N
(50) Animal racing facility	N	N	N	N	N	N	N
(51) Rifle, shotgun, pistol, archery, or paint gun, shooting facilities	N	N	N	N	N	P	N
(52) Wholesale business and storage, provided that storage of all new or used items, including dismantled vehicles, parts, equipment and what is generally referred to as "junk", shall be maintained in a structure with roof or screened from view from the street and adjoining property.	N	N	N	P	N	P	N
(53) Contractor offices and shops such as building, cement, electrical, heating, masonry, painting and roofing	N	N	N	P	N	P	N
(54) Junkyards	N	N	N	N	N	N	N
(55) Light industrial uses, including, but not limited to, the following, provided such uses shall be conducted in enclosed buildings that outdoor storage areas shall be effectively screened by a solid wall, fence or dense evergreen planting:	N	N	N	N	N	P	N
(a) Manufacture and assembly of electrical appliances, electronics and communication equipment, professional, scientific and controlling instruments and photographic or optical products;							
(b) Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, fur, cork, fiber, canvas, leather, cellophane, paper, glass, plastic, horn, stone, shells, tobacco, wax, textiles, yarns, wood and metals, including light steel or other light metals, light metal mesh, pipe, rods, shapes, strips, wire or other similar component parts.							
(c) Manufacturing, compounding, processing, packing or treatment of cosmetics, pharmaceuticals and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils;							
(d) Manufacture of musical instruments, novelties and molded rubber products, including tire manufacture, recapping and treading;							

**RETAIL, COMMERCIAL, AND INDUSTRIAL SERVICE USES**                      **PD TR SR C AR R SW**

- (e) Manufacture of pottery or other similar ceramic products using only previously pulverized clay; and kilns fired only by electricity or gas. Laboratories, chemical, physical and biological;
  - (g) Clothing and shoe manufacture;
  - (h) Truck terminals and/or truck service centers;
  - (i) Research and development facilities;
  - (j) Carpet and rug cleaning plants;
  - (k) Petroleum products storage underground;
  - (l) Blacksmith, welding machine and similar shops.
- (56) Industrial uses, including, but not limited to, the following types:                      N N N N N P N
- (a) Concrete and ceramic products manufacture, including ready-mixed concrete plants;
  - (b) Contractor's equipment and storage yards;
  - (c) Petroleum products storage tanks above ground, provided all State and Federal laws, as well as National Fire Underwriters Codes, are complied with; and
  - (d) Sawmills.

**UTILITIES; COMMUNICATIONS; TRANSPORTATION USES**                      **PD TR SR C AR R SW**

- (57) Transformer stations, structures housing switching equipment and regulators, pumping stations, power transmission line rights-of-way. In Residential Districts, the proposed use at the location selected if necessary for public convenience and service, that no public business office nor any storage yard or storage building is operated in connection with it, and whenever practicable, buildings and structures shall have the exterior appearance of residential buildings.                      N SE SE P SE P N
- (57A) Renewable Energy Source - Solar power plant                      N N N SE SE SE N
- (a) Height. Solar energy system panel structures shall not exceed the height of 15 feet as measured from the grade at the base of the structure to the apex of the structure. Necessary accessory structures (E.G. lightning rods) are subject to approval. This criterion does not apply to roof mounted systems.
  - (b) Glare. No solar energy system shall produce glare that would constitute a nuisance to occupants of neighboring parcels or persons traveling neighboring roads.
  - (c) Fencing. A secure chain-link fence at least six (6) feet in height shall enclose the entire solar energy system to restrict unauthorized access.

**UTILITIES; COMMUNICATIONS; TRANSPORTATION USES      PD TR SR C AR R SW**

- (d) Decommissioning. The solar energy system shall be completely decommissioned by the facility owner within twelve (12) months after the end of the energy producing abandonment or termination of such facility. Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, roads, foundations, pilings, and any other associated facilities. To the extent that any agricultural ground upon which the facility was located is again tillable and suitable for agricultural uses. Any component of the solar energy system buried greater than three (3) feet may remain to avoid unnecessary topsoil disturbance. Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored. The owner of the facility shall secure the costs of decommissioning by appropriate bond, letter of credit, or escrow agreement satisfactory to the county and shall include mechanism for calculating increased removal costs shall be submitted by the owner and subject to approval by the town prior to issuance of any permits required.
- (e) Signs. A sign, not to exceed one (1) square foot, shall be posted at each entrance to the solar energy system identifying the property owner, the solar system owner, and 24-hour number and the installer’s identification and 24-hour emergency phone number. Information on the sign shall be kept current. The sign shall be posted at the site in a clearly visible manner.
- (f) FAA. Must demonstrate compliance with federal aviation administration (FAA) regulations pertaining to hazards to air navigation.
- (g) In addition to these design standards, all Renewable Energy Source systems shall meet all applicable state regulations and permit requirements.

(58) Towers, radio and/or television transmitter towers or stations, excluding commercial studios, provided that any such tower shall be located a distance equal to its height plus 50 feet from all lot lines.	N   N   N   P   N   P   N
(59) Bus station	N   N   N   P   N   P   N
(60) Water storage or treatment facility	N   SE   SE   SE   SE   SE   SE
(61) Sewage treatment facilities, lagoons, settling basins, holding facility and the like	N   N   N   N   SE   P   N

<b>MISCELLANEOUS and ACCESSORY USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(62) Home professional office, provided that:	SE	SE	SE	SE	SE	P	N
(a) There shall be no use of show windows or display or advertising visible outside the premises other than announcement signs as permitted;							
(b) There shall be no exterior storage or materials unless completely screened from view from the street and adjoining property; and							
(c) The use shall be carried on only by members of the immediate family residing on the premises plus not more than one additional employee; and							
(d) The floor area devoted to a home professional office shall not be more than 25% of the ground floor area of the principal residential structure; however, the use can be on any floor.							
(e) In PD home professional offices are subject to the review and approval of the Historic Review Board.							
(f) This use is limited to traditional, professional office use only. No retail or service businesses are permitted.							
(63) Non-commercial greenhouse, tool shed, private garage, swimming pool, or similar accessory structure and other structures customarily incidental to a permitted use and not conducted as an independent principal use.	SE	P	P	P	P	P	N
(63A) Accessory building located on a lot which does not contain a principal building, but is compatible with the surrounding area and such accessory building will not exceed 15 feet wide, 30 feet long, and 12 feet high.	SE	SE	SE	SE	SE	SE	N
(64) Trailer and boat storage as accessory uses, provided that:	SE	P	P	P	P	P	N
(a) The trailer or boat shall not be occupied or used for dwelling purposes; and							
(b) In a residential district, the use shall not be located in the required front or side yard.							
(c) No trailer or boat may be stored on a lot(s) which does not contain an occupied residence.							
(d) In PD trailer and boat storage are subject to the review and approval of the Historic Review Board.							
(65) Fences, walls, landscaping materials subject to the traffic visibility requirements and provisions of Section 504. In PD fences are subject to the review and approval of the Historic Review Board.	SE	SE	SE	P	P	P	N

<b>MISCELLANEOUS and ACCESSORY USES</b>	<b>PD</b>	<b>TR</b>	<b>SR</b>	<b>C</b>	<b>AR</b>	<b>R</b>	<b>SW</b>
(66) Off-street parking subject to the provisions and requirements of Article 6	P	P	P	P	P	P	N
(67) Signs subject to the provisions and requirements of Article 7. In PD subject to review and approval by the Historic Review Board	SE	SE	SE	P	P	P	N
(67A) Electronic Message Center Sign	N	N	SE	SE	SE	SE	N
(68) Windmills, wind turbines, and other such devices	N	N	N	N	N	P	N
(69) Outdoor furnaces	N	SE	SE	SE	SE	P	N
(70) Other uses substantially similar in character and impact to uses ordinarily permitted by this article by right or special exception within the same zoning district.	SE	SE	SE	SE	SE	SE	N
(71) Permanent basketball hoop subject to the provisions and requirements of Ordinance No. 2019-01 Basketball Hoops on Public Rights-of-Way, or its successor, and amendments.	SE	SE	SE	N	SE	SE	N
(72) Renewable Energy Source - Solar energy system, accessory	SE	SE	SE	SE	SE	SE	N
(a) <u>Height</u> . Solar energy system panel structures shall not exceed the height of 15 feet as measured from the grade at the base of the structure to the apex of the structure. Necessary accessory structures (E.G. lightning rods) are subject to approval. This criterion does not apply to roof mounted systems.							
(b) <u>Glare</u> . No solar energy system shall produce glare that would constitute a nuisance to occupants of neighboring parcels or persons traveling neighboring roads.							
(c) In addition to these design standards, all Renewable Energy Source systems shall meet all applicable state regulations and permit requirements.							

**407 Satellite TV Dishes TVRO Dishes or Stations Earth Stations and the Like**

Satellite TV dishes, TVRO dishes or stations, and earth stations and the like, shall not be permitted in the front yard, as defined herein, of any lot located within a residential district within the Town of Mountain Lake Park. Satellite dishes shall be subject to the setback requirements as set forth in Article 5 hereof "Digital satellite system" dishes, of no more than twenty-six (26) inches in diameter are exempted from the operation of this

Section. Also exempted are internet connectivity dishes of no more than twenty-four (24) to thirty-six (36) inches.

**408 Vending Machines**

Vending machines shall not be permitted on the sidewalks or the streets of Mountain Lake Park in any zoning district.

**ARTICLE 5. GENERAL REGULATIONS**

**LOT AREA AND LOT WIDTH REGULATIONS**

**500 Dimensional Requirements**

The regulations for each District pertaining to minimum lot area, minimum lot area per dwelling unit, minimum lot width, maximum height, and minimum required yards shall be as specified in the "Table of Dimensional Requirements for Principal and Accessory Uses" in Section 501, subject to any further applicable provisions of this Ordinance, including Section 513 governing development on "steep slopes".

**501 Table of Dimensional Requirements for Principal and Accessory Uses**

Maximum District Use		Minimum Land Area	Minimum Area per Dwelling Unit	Minimum Lot Width	Building Setback Lines Minimum Required Yard			
		(sq. ft.)	(sq. ft.)	(feet)	Front	Side	Rear	Height
TR and PD	Duplex	15,000	7,500	100	15	10	20	35
	Townhouse	12,000	4,000		20	10*	20	35
	Apartment	20,000	4,000	200	20	25	25	35
	Senior Multi-Family Housing	20,000	2,800	100	15	10	20	40
	Senior Center	26,136	12,000	100	15	10	20	35
	Any other use	12,000	12,000	100	15	10	20	35
	SR	Duplex	24,000	12,000	100	20	10	25
	Townhouse	12,000	5,000		20	15*	25	35
	Apartment	40,000	5,000	200	20	15	30	35
	Senior Multi-Family Housing	20,000	2,800	100	15	10	20	40
	Senior Center	26,136	12,000	100	15	10	20	35
	Any other use	12,000	12,000	100	15	10	20	35
C	Dwelling unit in combination with commercial use	7,500	7,500	75	15	8	20	35
	Any other structure	5,000	5,000	75	15	8	20	35
AR	Any use permitted	130,680	130,680	200	20	10	25	35
R and SW	Any use permitted	43,560	43,560	100	20	10	25	35

\*Side yard requirement only for end units. A Maximum density is six dwelling units per acre. Minimum Land Area excludes all existing public street rights-of-way. NOTE: The above Dimensional Requirements are based upon the availability of a centralized water supply system and a centralized sewage disposal system. If these systems are not available to a potential land development, the following and other application State Department of Health and Mental Hygiene Standards shall be used by the Garrett County Health Department in determining minimum lot size:

Percolation Rate Time Required For a 1" Drop	Using a Private Water Supply & Private Sewage Disposal System		Using a Centralized Water Supply & Private Sewage Disposal System		Using a Centralized Sewage Disposal System & Private Water Supply	
	Minimum Lot Width	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area
Minutes	(feet)	(sq. ft.)	(feet)	(sq. ft.)	(feet)	(sq. ft.)
1 to 5	100	20,000	100	15,000	75	12,000
6 to 15	125	25,000	100	17,500	75	12,000
16 to 25	150	30,000	100	20,000	75	12,000
26 to 30	150	40,000	140	30,000	75	12,000

**502 Lot Area or Yard Required**

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance. No required lot or area shall include any property, the ownership of which has been transferred after the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

**503 Exceptions to Minimum Lot Sizes and Lot Widths**

- A. A building may be constructed, provided the yard requirements are observed, on any lot which was lawful when created and which prior to the effective date of this Ordinance was in separate ownership duly recorded by plan or deed.
- B. This exception shall not apply to any two or more contiguous lots in a single ownership as of or subsequent to the effective date of this Ordinance, in any case where a re-parceling or replotting could create one or more lots which would conform to the above provisions.

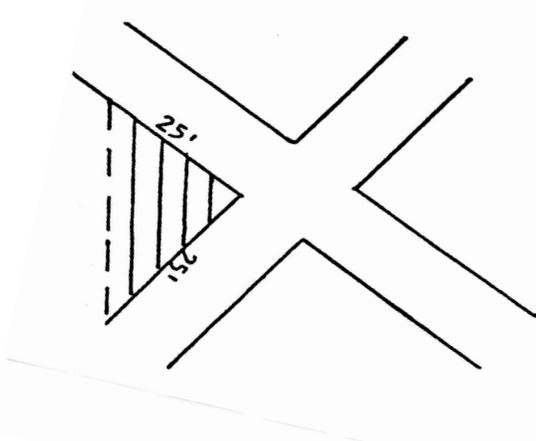
**504 Front Yard Reduction**

When there is an existing building on each of two lots adjacent on either side to a lot on which a proposed building is to be erected, where both such existing buildings nearer to the street line than the required front yard depth elsewhere specified in this Ordinance, and when each such existing building is within one hundred feet of the proposed

building, the average of the existing front yard depths of such adjacent lots shall be the minimum required front yard for the lot on which the proposed building is to be erected.

**505 Traffic Visibility Across Corners (clear sight triangle)**

On any corner lot, no wall, fence or other structure **shall be erected or altered and no** hedge, tree, shrub, or other growth shall be **maintained which causes danger to traffic** on a street by obscuring the view. Visual obstructions shall be limited to a height of not more than two feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five feet from the intersection of said street line.



**YARD AND HEIGHT REGULATIONS**

**506 Permitted Projections into Required Yards**

Subject to Section 504 and 505, the provisions of Section 500 shall not apply to fences or walls which are less than six feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the floor level of the ground story except that in residential districts no fence, wall or shrubbery shall be more than three (3) feet in height in the area between the front lot line and the required setback line. Subject to Section 504, Article 6 and Article 7, the yard requirements of Section 500 shall not apply to accessory signs and off-street parking spaces.

**507      Accessory Buildings in Side and Rear Yards**

Completely detached accessory buildings may occupy required side and rear yards but shall not be located closer than five feet to any side or rear property line.

**508      Front and Side Yards of Corner Lots**

On a corner lot the street side yard shall equal the required front yard for lots facing that street.

**509      Height Exceptions of Maximum Regulations**

Maximum height regulations shall not apply to church spires, chimneys, aerials and other structures normally built or located above the roof and not devoted to human occupancy.

**510      Environmental Protection-Flood Plains**

- A.    Purposes: This Section is intended to safeguard and promote the public health, safety and general welfare by:
  - 1.    Regulating development in areas known to possess characteristics indicative of flooding and/or chronic wetness.
  - 2.    Maintaining adequate natural drainage-ways to carry abnormal water flows during periods of heavy precipitation and snow melt.
  - 3.    Restricting the construction of improvements in locations where they would likely be damaged by floods or where they could be washed away and cause damage to downstream properties.
  - 4.    Preventing encroachments on floodways which would cause damage to other properties along the watercourse by increasing the height and the velocity of floods.
  - 5.    Preventing health and safety hazards along drainage ways during floods by preventing the placing or storing in the floodway of unsanitary or dangerous substances.
  - 6.    Reducing the financial burden imposed on the Town and its residents by frequent and periodic floods, overflows on land and erosion.

- 7. Assuring the eligibility of the Town so that residents in endangered areas may obtain reasonable surety for their homes through the National Flood Insurance Act of 1968 or any amendments or successor statutes thereto.
- 8. Permitting and encouraging the retention of open land uses located and designed to constitute an appropriate part of the physical development of the Town as provided in the adopted Comprehensive Development Plan.

B. Flood Plains Defined: The provisions of this Section shall apply to all flood plain areas which are hereby designated to include:

- 1. All areas delineated as "100-year flood plains" in studies published by the U.S. Army Corps of Engineers or by the Maryland Department of Natural Resources, except that:
- 2. In the absence of such delineation of the 100-year flood plain along any drainageway, stream or body of water, the provisions of this Section shall apply to all lands containing alluvial soils or high water table soils as identified in and delineated upon the maps of the Garrett County Soil Survey, and to all land lying within twenty-five feet measured horizontally from the center line of any stream, drainageway or body of water. Specifically, these provisions shall apply to the following named soil types:

- An Alluvial land
- Ao Alluvial land, very stony
- Ar Armagh silt loam
- At Atkins silt loam
- BrA Brinkerton and Andover silt barns, 0 to 3
- BrB Brinkerton and Andover silt barns, 3 to 8 percent slopes
- BsC Brinkerton and Andover, very stony silt barns 0 to 15 percent slopes
- Ek Elkins silt loam
- Lc Lickdale silt loam
- Ls Lickdale very stony silt loam
- NoB Nob silt loam, 0 to 8 percent slope
- Pe Peat
- Ph Phibo silt loam
- Po Pope silt loam
- PuC2 Purdy silt loam, 0 to 15 percent slope, moderately eroded

- C. Review Procedure: All land lying in, or within a distance of one hundred feet from, areas of alluvial and high-water table soils as shown, for reference only, on the Zoning Map shall be subject to the following procedure:
  - 1. Where an application for use of such land involves or includes permanent structures or facilities, including but not limited to buildings, septic systems and wells, the Zoning Administrator shall transmit a copy of such application and supplementary information to the Garrett Soil Conservation District, the Garrett County Health Department, the Garrett County Stormwater Management Office, and a copy to the Maryland Water Resources Administration, requesting the written comments of each such reviewing agency regarding the proposed use. The Zoning Administrator may also request the written comments of all other County, State or Federal agencies with a relevant interest.
  - 2. In addition to the information ordinarily required for a zoning permit, the Zoning Administrator shall require the applicant to supply any or all of the following supplementary information to assist in the thorough and equitable evaluation of the proposed use:
    - a. The existing and proposed contours at a contour interval of two feet,
    - b. The existing and proposed elevations of the levels of the land involved at the corners of the foundation of any buildings and utility facilities and at the intersection of any street;
    - c. The lowest elevation of the lowest proposed floor level and the main floor elevation within all proposed buildings and for all proposed utility facilities;
    - d. The layout of existing and proposed streets and the nature, extent and location of existing and proposed utilities; and
    - e. A detailed on-site soil survey prepared by a qualified soil scientist and/or a detailed engineering investigation by a registered professional engineer in accordance with survey techniques approved by the Garrett Soil Conservation District.
  - 3. The Zoning Administrator shall delay action on such application for a period of sixty (60) days from the date of transmittal to the agencies listed above. If no written request is received, or if no request for a reasonable extension of the review time is received from said agencies

within said thirty days, the presumption shall be that the agency has no objections to the proposed use.

4. If the application complies with all other relevant provisions of this Ordinance, the Zoning Administrator, after the expiration of said thirty (30) days or of such reasonable additional review time as may have been granted, shall either disapprove the application, or shall approve the application and issue a zoning permit or shall approve the application subject to such additional requirements as may seem necessary, reasonable and proper to protect the public interest in reducing flood hazards or to protect the public health, safety or welfare, based upon the written comments of the reviewing agencies. Such additional requirements may include, and the reviewing agencies may suggest that such additional requirements include, without being limited to, prohibiting or restricting one or more of the following uses and activities:
  - a. All buildings, including residential, commercial, industrial and other buildings intended for human occupancy or employment.
  - b. All refuse sites, excavation sites, dumps, junkyards, storage or animal waste materials, or the storage of inflammable liquids such as petroleum.
  - c. The filling of wetlands, the removal of topsoil, the damming, changing, or relocation of any watercourse.
  - d. The installation or use of any sewage disposal facilities or portable water supply facilities.

D. Minimum Construction Standards

The following minimum construction standards shall apply to all uses which may in the future be permitted in 100-year flood plains delineated pursuant to subsection B.1 above, and the standards may be specified by the Zoning Administrator as additional requirements in granting approval pursuant to subsection C-4 above.

1. No building shall be erected or located in any flood plain unless the main floor elevation of said building shall be not less than three feet above the design flood plain water elevation.
2. Any structure placed in the flood plain shall be firmly anchored to prevent flood waters from carrying it downstream. Such anchoring shall be sufficient to withstand a flood velocity of ten feet per second; this

requirement shall apply to all portions of the structure up to an elevation of not less than three feet above the design flood elevation. The Zoning Administrator shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard.

- 3. All materials and equipment located or stored below the main floor elevation of any building located in a flood plain shall be protected from flood damage. The Zoning Administrator may require the applicant to install a water pump in any such building. No living accommodations shall be located below the main floor elevation of any such building.
- 4. No building within a flood plain shall be located less than fifty feet from the outer limits of encroachment lines of any river, stream, creek, watercourse or water body or drainageway.
- 5. Not with standing other provisions of this Ordinance, the total area of all buildings and impervious surfaces located in a flood plain shall not cover more than thirty-five percent of the total lot or land area, in order that the remaining land will be open and allow for the unobstructed passage of water; the remaining open land, however, may be used for parking and loading areas, landscaping, required access drives, required yards, and similarly permitted open uses.
- 6. No building or improvement located in a flood plain shall be located or designed so as to impede unreasonably the movement or flow of surface water or debris.

E. Effect of Approval

The granting of approval of a site development plan or the issuance of a zoning permit for any building or use located in or within one hundred feet of a flood plain shall not constitute a representation, guarantee or warranty of any kind or nature by the Zoning Administrator or by any other public body or official, as to the practicability or safety of any structure or use proposed or erected and shall create no liability upon or cause action against such public body or official for any flood, chronic wetness, or pollution damage that may result pursuant thereto. Nothing herein shall be construed to relieve any person from full compliance with any County, State or Federal law or the requirements thereof.

**511 Screening of Outdoor Storage Areas**

Outdoor storage of materials equipment and supplies outside of completely enclosed buildings shall be permitted as a use accessory to commercial, industrial, and other

nonresidential uses, excluding home occupation uses, provided all such outdoor storage areas shall be effectively screened from the view from adjoining properties and public streets by dense evergreen planting at least six feet high or by a solid wall, screen or fence of equal height.

**512      Setbacks for Satellite Dishes, Antennae, Etc.**

No satellite TV dish, TVRO dish, earth station, TV antenna, aerial, or the like, shall be located closer than fifteen feet to any property line, and any such dish shall be subject to the provisions of Section 407.

**513      Steep Slopes (Over Thirty Percent)**

- A.      New Slopes: If any new slope shall be proposed in any development of a ratio greater than 4:1, the application for said development shall provide a written description of the measures that will be used to stabilize such slope, together with a legally binding timetable for the implementation of such measures.
  
- B.      Over Thirty Percent Slope: Any construction of a new principal building or a new parking lot on land that includes existing natural slopes of over thirty percent shall require Special Exception approval by the Board of Appeals. When Special Exception approval is required, the applicant shall:
  - 1.      Show that existing trees or other vegetation will be preserved to the maximum extent reasonable, or be immediately replaced by new trees and other vegetation,
  - 2.      Show that the percentage of the lot covered by buildings and paving will be reasonably minimized;
  - 3.      Submit a plan showing that stormwater runoff will be properly controlled;
  - 4.      Submit and carry out a detailed soil erosion and sedimentation control plan, which shall be submitted in advance for review and acceptance by the Town or its designee; and
  - 5.      Submit a grading plan prepared by a qualified professional, which shall hold grading to a reasonable minimum.
  
- C.      Slopes on Proposed Lots
  - 1.      If natural slopes of over thirty percent (30%) are present on a proposed lot, then the applicant shall submit a site plan with any application for either a building permit or zoning permit that shows the locations of all buildings,

paved areas, etc., and designates the maximum portions of the lot that will be used for construction of principal buildings. The applicant may be able to avoid some or all of the requirements of this subsection 513-C by restricting construction to the less steep portions of a lot.

2. If the site plan designates areas of over thirty percent (30%) slope for the construction of a principal building, the following additional requirements shall apply to such new lot:
  - a. The minimum lot area shall be 20,000 square feet, unless a larger lot area is required by another section of this Ordinance; and
  - b. A maximum of **fifty** (50%) percent of the lot area may be covered by all buildings, paving and stone or masonry surfaces.
  - c. The minimum lot area shall be three acres, unless a larger area is required by another Section of this Ordinance; and
  - d. A maximum of ten percent of the lot area may be covered by all buildings, paving and stone surfaces.

D. Slope Exceptions

If the building footprint of a new principal building and/or the area of a parking lot would affect less than two hundred square feet with a natural slope of more than thirty percent (30%), then the requirements of the above subsections **513B** and **513C** shall not apply.

**514** Stream Buffers

- A. Setback: No new principal buildings, off-street parking, loading area or commercial or industrial outdoor storage area shall be located within twenty-five feet of the top of the primary bank of any perennial waterway.
- B. No new or expanded paving or stone surface shall be placed within the setbacks established by Mountain Lake Park's duly adopted Flood Plain Ordinance No. 2013-1, adopted on September 5, 2013, except for:
  1. Trails that will not serve motor vehicles;
  2. Necessary road and driveway crossings that are approximately perpendicular to the stream; and
  3. Temporary waterway crossings related to construction, provided such crossings are approved by applicable State agencies.

- C. Property owners are strongly encouraged, but not required, to maintain the stream buffers in natural vegetation, and to plant new trees in areas without significant existing vegetation. Subdividers are encouraged to establish deed restrictions to limit tree cutting within this buffer.

**515 Flood Prone Areas**

- A. Flood-Prone Areas: All construction, including any paving, shall be in accordance with Mountain Lake Park's duly adopted Flood Plain Ordinance No. 2013-1, adopted on September 5, 2013.
- B. Wetland: In any area suspected of being a wetland, where development or other alterations are proposed, the applicant shall provide evidence that he/she is complying with the regulatory procedures of the State of Maryland.

**516 Notification of Threatened and Endangered Species and Wetlands**

- A. Federal Habitat: The Zoning Administrator shall notify an appropriate Federal agency in writing if an application for development is submitted that could affect a site known to the Zoning Administrator to have been identified by a federal agency as a habitat for a Federally designed Rare, Threatened or Endangered Species.

**ARTICLE 6. OFF-STREET PARKING AND LOADING**

**600      Required Off-Street Parking Space**

Off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building which, after the effective date of this Ordinance, is erected, enlarged or altered for use for any of the following purposes in any district. For uses not specifically listed, the same requirements shall be followed for the most similar use listed.

- A.     Agriculture: One off-street parking space for each employee.
  
- B.     Automotive service station: One off-street parking space for every three hundred square feet of gross floor area or two off-street parking spaces for each service bay, whichever is more, plus one space for each full-time employee. Said off-street parking spaces are not to interfere with the access ways to pumps, but pump spaces shall be counted toward the total requirement.
  
- C.     Banks or other financial institution: One off-street parking space for each one hundred square feet of gross area used or intended to be used for servicing customers, plus one additional space for each full-time employee.
  
- D.     Bus or Taxicab Terminal Building: One parking space for every one hundred square feet of waiting area and one space for each full-time employee.
  
- E.     Business administrative or professional offices: One off-street parking space for each two hundred square feet of gross floor area, plus one additional space for each full-time employee.
  
- F.     Community center, adult education center, entertainment facility or other similar facility: One off-street parking space for each three seats provided for patron use or at least one off-street parking space for each forty square feet of gross floor area used or intended to be used for service to customers, patrons clients, guests or members, whichever requires the greater number of off-street parking spaces, plus, one additional space for each full-time employee.
  
- G.     Cultural Facilities including a library or museum: One space per four seats or one space per two hundred and fifty square feet of gross floor area where no seats are provided.
  
- H.     Fire Stations and Rescue Squads: Three off-street parking spaces for every four employees on the two major shifts at maximum staffing; where a community room is provided, two off-street parking spaces for each emergency truck, plus one off-street parking space for each one hundred square feet of gross floor area.

- I. Furniture Stores: One off-street parking space for each five hundred square feet of gross floor area.
- J. Golf Course: One off-street parking space per three people of total capacity, plus one space for each full-time employee.
- K. Home professional office home occupation: One off-street parking space in addition to spaces otherwise required.
- L. Industrial uses (all): One off-street parking space for every two employees on the largest shift, plus one space for each company vehicle normally stored on the premises, plus one visitor space for each ten managers.
- M. Licensed hospital or licensed nursing home: One and one-half off-street parking spaces for each patient bed in a hospital, plus at least one additional off-street parking space for each staff and visiting doctor and each employee (including nurses) on the two major shifts. The patient parking space requirement for a nursing home is one parking space for each five patients.
- N. Mortuary or funeral home: One off-street parking space for each four seats provided for patron use or at least one off-street parking space for each fifty square feet of gross floor area, plus two spaces for each family living on the premises, plus one space for each employee.
- O. Motel hotel: One off-street parking space for each rental room or suite, plus one additional off-street parking space for each full-time employee.
- P. Office or clinic for medical or dental examinations: Four off-street parking spaces per doctor.
- Q. Place of religious worship: One off-street parking space for each four seats provided for patron use or at least one off-street parking space for each fifty square feet of gross floor area used or intended to be used for service to patrons, guests or members, whichever requires the greater number of off-street parking spaces, plus one additional space for each full-time employee.
- R. Private club or lodge: One off-street parking space for every five members, plus one space for each manager and one space for each two employees.
- S. Public or private educational institution
  - 1. College and Junior College: One off-street parking space per faculty member and/or employee plus one space for each ten classroom seats,

plus, additional spaces as required by this parking schedule because of any supplemental parking generating activities at the institution.

- 2. Elementary School and Middle School: One off-street parking space for each faculty member and employee, plus one space per two classrooms and/or offices.
- 3. Nursery: One off-street parking space for each teacher.
- 4. Senior High School or Trade School: One off-street parking space per faculty member and/or employee, plus one space per eight students of projected building capacity.
  
- T. Recreational facility owned or operated privately or by the Town or other government: One off-street parking space for each four persons of total capacity.
  
- U. Residences: Two off-street parking spaces for each dwelling unit.
  
- V. Restaurant: One off-street parking space for each one hundred square feet of gross area used or intended to be used for servicing customers, plus one additional space for every two full-time employees.
  
- W. Retail and Service Shops: One off-street parking space for each one hundred square feet of gross area used or intended to be used for servicing customers, plus one additional space for every two full-time employees.
  
- X. Sale or rental of automobiles: One off-street parking space for each one hundred square feet of gross floor area, plus one additional space for each full-time employee.
  
- X1. Senior Center: One off-street parking space for each two hundred square feet of gross floor area.
  
- X2. Senior Multi-Family Housing: One off-street parking space for each dwelling unit.
  
- Y. Shopping centers and large (big box) retail outlets: Five and one-half spaces for each one thousand square feet of gross floor area.
  
- Z. Veterinary office or animal hospital: Three off-street parking spaces for each veterinarian, plus one space for each full-time employee.

**601      General Regulations Applying to Required Off-Street Parking Facilities**

- A.      Existing Parking Structures and uses legally in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Article so long as the extent or intensity of use is not substantially changed, provided that any parking facility now serving such structures and/or uses shall not in the future be reduced below such requirements.
  
- B.      Changes in Requirements Whenever there is an alteration of a structure or a change or extension of a use which increases the parking requirements according to the standards of Section 600, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of that Section.
  
- C.      Conflict with Other Uses: No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
  
- D.      Continuing Character of Obligation All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the employees or other persons whom the facilities are designed to serve. Such facilities shall be designed and used in such a manner as to at no time constitute a nuisance, hazard or unreasonable impediment to traffic.
  
- E.      Joint Use Two or more uses may provide for required parking in a common parking lot if the total spaces provided is not less than the sum the spaces required for each use individually.
  
- F.      Fractional Spaces Where the computation of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.
  
- G.      Location of Parking Space Required off-street parking spaces shall be on the same lot or premises as the principal use served, or where this requirement cannot be met, within four hundred feet of the principal use served within the same district.

**602      Design Standards**

The design standards specified below shall be required for all off-street parking facilities with a capacity of four or more vehicles built after the effective date of this Ordinance.

A. Parking lot dimensions shall be no less than those listed in the following table:

Angle of Parking	Parking Width	Stall Depth	Aisle Width	
			One-Way	Two-Way
90	10'	20'	22'	24'
60	10'	21'	18'	21'
45	10'	20'	15'	18'
30	10'	18'	12'	15'
Parallel	8'	22'	12'	18'
Senior multi-family housing	9'	18'	12'	15'
Senior Center	9'	18'	12'	15'

- B. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.
- C. The width of entrance and exit drives shall be:
  - 1. A minimum of twelve feet for one-way use only;
  - 2. A minimum of twenty feet for two-way use; and
  - 3. A maximum of forty feet at the street line.
- D. In no case shall parking areas for four or more vehicles be designed to require or encourage cars to back into a public street in order to leave the lot.
- E. For parking areas of four or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the extent necessary to prevent dust, erosion or excessive water flow across streets or adjoining property.
- F. All lighting used to illuminate any parking space or spaces shall be arranged so as not to cause a glare into abutting lots.

**603 Off-Street Loading**

Off-street loading requirements as specified below shall be provided on any lot on which a building exceeding eight thousand square feet of gross floor area for business or industry is hereafter erected.

- A. Every building or structure, lot or land hereafter put to a business or industrial use or existing building or structure enlarged shall provide one off-street truck loading space for the ten thousand square feet or less of gross floor area, plus a

minimum of one additional off-street truck loading area for each additional forty thousand square feet of gross floor area.

- B. Off-street loading areas shall be graded, surfaced with asphalt or other suitable material, and drained to the extent necessary to prevent dust, erosion or excessive water flow across streets or adjoining property.

**ARTICLE 7. SIGNS**

**700 Intent and Exemptions from the Terms of this Article**

- A. No sign shall be erected, hung, placed or painted in any District except as hereinafter provided.
- B. Tacking, painting, posting or otherwise affixing of signs or posters of a miscellaneous character on the walls of buildings, barns, sheds, trees, posts, poles, fences, walls or other structures except as provided for in this Ordinance is prohibited.
- C. No sign legally erected before the enactment of these regulations shall be altered in any respect or moved, except in compliance with the provisions of this Ordinance.
- D. The flag, emblem or insignia of a nation, other governmental unit, non-profit educational, charitable or religious group shall be exempt from the terms of this Article.

**701 Word Interpretation**

For the purpose of this Article and any other sections in this Ordinance relating to signs, the following words are intended to include any tense or the prefix "re": affix, alter, attach, display, erect, hang, move, paint, paper, paste, place, post, repair.

**702 Area of Sign**

- A. The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not to include any supporting framework and bracing which are incidental to the display itself
- B. The area of a sign painted upon or applied to a building shall be construed to include all lettering, wording, and accompanying designs or symbols together with any backing or bordering associated with the sign.
- C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- D. In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical.

**703      Permit Requirements for Signs**

No on-premises sign over six square feet in area and no off-premises sign (except governmental sign) of any size shall be erected, affixed, painted, hung or otherwise displayed, altered or repaired, unless a permit therefor has been issued and the cost thereof as established by the Mayor and Town Council, by its resolution, paid. No permit shall be required for the repainting or repapering of a sign which conforms to the provisions of this Ordinance. Signs on theaters advertising changes in program shall not require permits except for the initial installation thereof. All signs of any size must comply with all the regulations contained herein, irrespective of whether a permit is required.

**704      Signs Permitted in "Residential" Districts**

A.      On-Premises Signs

1.      Official traffic signs and other official Federal, State, County or Town government signs.
2.      A sign indicating the name or number of the building or premises or the accessory use of a dwelling for a home occupation, provided that such sign shall not exceed two square feet in area; that not more than one such sign shall be erected on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. A sign, if illuminated, shall be of any enclosed lamp design and non-flashing.
3.      Bulletin or announcement board or identification signs for schools, churches, hospitals and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed twelve square feet and not more than one such sign shall be placed on a property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
4.      Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed six square feet and not more than one such sign shall be placed on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon final settlement or renting of a property.
5.      A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any

such sign shall not exceed one hundred square feet, that not more than one such sign may be placed on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon completion of the development.

- 6. Temporary contractors', architects', or building signs, provided that the area of any such sign shall not exceed twelve square feet. Such signs shall be removed immediately upon completion of the work or eighteen months after erection of the signs, whichever shall occur first.
- 7. Traffic control and directional signs not exceeding two square feet in area. Such signs shall not be illuminated, but may be of the beaded reflector type. No advertising matter whatsoever shall be contained on signs of this type.
- 8. Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, education, or religious organization. Such signs shall not exceed twelve square feet in area and shall be removed not more than five days after the event.
- 9. No trespassing signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall not exceed two square feet.

B. Off-Premises Signs

- 1. Signs directing patrons, members or audience to temporary exhibits, shows, or events, subject to the following requirements:
  - a. No such sign shall exceed twelve square feet in area.
  - b. Signs shall be removed within five days after the date of the exhibit, show or event.
  - c. No permit shall be issued for the erection of such signs until a deposit shall be made with the Zoning Administrator in accordance with a fee schedule adopted by the Town Council to guarantee removal within the time prescribed. Failure to remove such signs within the time prescribed shall result in forfeiture of the deposit, and the Mayor and Town Council or any person designated by the Mayor and Town Council shall have the authority to enter upon the premises and remove the sign.

- d. No such sign shall be posted earlier than two weeks before the occurrence of the event to which it relates.
2. Official traffic signs and other Federal, State, County or Town governmental signs.

**705 Signs Permitted in the "Commercial" District**

**A. On-Premises Signs**

1. All signs permitted in Section 704 at the standards prescribed therein except as otherwise provided in this Section.
2. Signs for permitted non-residential uses provided:
  - a. The aggregate area of all signs attached to or printed on a building shall not exceed ten percent of the area of the building face to which they are attached or painted, or two hundred square feet whichever is less. Regardless of the total size of a sign, no more than 12 square feet of that sign may be an electronic message center sign.
  - b. Free-standing signs identifying a single building or its business or a shopping center in accordance with the following schedule:

<u>Total Street Frontage</u>	<u>No. Signs Permitted</u>
1 to 1,000 feet	1
Each additional 1,000 feet	1

The area of any free-standing sign shall not exceed one square foot for each linear foot of street frontage occupied by the use on which or in connection with which the sign is to be erected, but in no case shall the area of a sign exceed two hundred square feet.  
Regardless of the total size of a sign, no more than 12 square feet of that sign may be an electronic message center sign.

**B. Off-Premises Signs**

1. All signs permitted in Section 704 at the standards prescribed therein.
2. Signs used for directing patrons, members, or audience to service clubs, churches, or other non-profit organizations, provided signs shall indicate only the name, emblem, meeting hours, address and the direction of the facility, and shall not exceed four square feet in area.

**706      General Sign Regulations**

- A.      No sign shall project more than three feet above the roof of a building. No such sign shall be larger than fifteen square feet in area. No sign shall be hung from a building if it shall extend more than four feet from the face of the building, and there shall be a minimum of eight feet clearance from the bottom of the sign to the ground. No sign protruding out over any sidewalk may exceed ten square feet in area. Such signs are to be properly anchored and maintained, with the maximum thickness of eight inches.
  
- B.      No signs shall be located within any street rights-of-way except signs permitted in Section 704.A. 1.
  
- C.      Signs shall not exceed the height limit permitted in any District in which they are located.
  
- D.      Signs shall not obstruct any window, door, fire escape, stairway or other opening intended to provide light, air, ingress or egress for any building or structure.
  
- E.      No sign shall constitute a public safety and traffic hazard, such as by obstructing traffic signs, road warning signs, street name signs, or the full view of the traffic in all directions. Lighting devices shall be shielded so they do not shine directly into a public street or highway or into a residential district.
  
- F.      All signs except temporary signs shall be constructed of durable material and kept in good condition and repair. Whenever, in the opinion of the Zoning Administrator, a sign becomes structurally unsafe or endangers the safety of a building or premises or the public safety, the Zoning Administrator shall order that such sign be made safe or be removed. Such order shall be complied with within five days of receipt thereof by the person, firm or corporation owning or using the sign or the owners of the building or premises on which such unsafe sign is affixed or erected.
  
- G.      Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs if not removed may be repaired or repainted, provided that such repainted or repaired sign does not exceed the dimensions of the existing sign, and provided no change is made in the general wording or content of the sign.
  
- H.      No sign advertising a business or commercial enterprise shall remain on any property, building, or structure, within the Town of Mountain Lake Park, after the commercial enterprise or business has ceased to exist. The owner of such property upon which such sign remains shall remove said sign within thirty days of the closing of such business. In the event that such sign is not removed, the

Town of Mountain Lake Park shall have the right to remove such sign, and assess the cost thereof against the owner of the property upon which such sign is located.

- I. No sign of any kind shall be posted on any traffic control device, utility pole, street light, U.S. Mail box or, any other utility structure not owned by the owner of the property upon which it sits or to which it is adjacent. In the event that any such sign is so posted, the Mayor and Town Council, or its designee, may remove and dispose such sign. Signs and messages legitimately attached to or made part of any traffic control device, utility pole, street light, U.S. Mail box or other utility structure by the owner or operator of same are exempted from this Section.
  
- J. No sign shall be erected or maintained which contains any vulgar or profane language nor shall any sign contain any direct insult or fighting words directed at any identifiable person or group. In the event that such sign is erected or maintained, the Zoning Administrator shall immediately upon becoming aware of the existence of said sign give, the owner of the property on which the sign is erected or maintained notice to remove the sign immediately. In the event the sign is not immediately removed, the Town may, in addition to the imposition of property, remove the sign and dispose of it as it sees fit, and assess any costs thereof to the property owner. Any such costs so assessed shall be collectible as any other Town assessment or tax.

**707 Special Provisions for Electronic Message Center Signs**

Electronic Message Center (EMC) signs shall be permitted for accessory on-premise uses by Special Exception in Commercial, Suburban Residential, Agricultural Resource Area and Rural Area districts. On-premise EMC signs shall be subject to the following additional standards and limitations:

- A. EMC signs shall not exceed 12 square feet.
  
- B. Intervals for messages require a minimum of 5 - 15 seconds between changes of message and graphics shall be no longer than 15 seconds.
  
- C. Animated changes in the display shall be limited to blur, fade or wipe and the transition time shall be limited to a maximum of 2 seconds.
  
- D. Scrolling and flashing are prohibited.
  
- E. Maximum brightness is allowed to be no more than 10,000 nits during daylight and 700 nits at night (or rough equivalent in foot candles or lumens) and automatic brightness control shall be linked to an ambient light level sensor.
  
- F. The display shall go dark automatically in the event of a major failure or malfunction.

- G. All EMC signs placed within 150 feet of a residential structure are to be oriented perpendicular to residential frontages and will be operational no sooner than 7 a.m. and no later than 10 p.m., except for public safety purposes.
- H. All applicants for EMC signs shall provide:
  - 1. A form executed by the owner/end user agreeing that permit issuance is conditional and based upon the use of the agreed upon display settings.
  - 2. Proof of UL48 (or ETL equivalent) listing and a valid copy of the FCC Manufacturers Testing Certificate.

**ARTICLE 8. NONCONFORMITIES**

**800      Continuation**

Nonconforming Uses, as defined in Article 2, are governed by this Article, and may continue only in conformance with the provisions hereof. Such uses as are continued not in conformance with the provisions of this Article shall forfeit their nonconforming status, and may thereafter be treated as any other use in violation of this Ordinance.

**801      Nonconforming Buildings and Structures**

Nonconforming buildings, structures, and lots, as defined in Article 2, are governed by this Article, and may continue only in conformance with the provisions hereof. Such buildings, structures and lots continued not in conformance with the provisions of this Article shall forfeit their nonconforming status, and may thereafter be treated as any other buildings, structures, and lots, subject to the provisions of these regulations.

**802      Nonconforming Special Exception Uses**

Any use legally existing on the effective date of this Ordinance and which is classified as requiring a Special Exception in the zoning district in which it is located, under Section 405, Table of Use Regulations, and for which the owner of the land on which said use exists has not applied for and officially been granted a Special Exception by the Board of Appeals pursuant to Article 10 hereof, shall be considered a non-conforming use. Nothing herein shall be construed as a grant of permission for the enlargement, extension, alteration or reconstruction of such use itself, or of any building or structure involved in such use. In all respects, such a use shall be considered a nonconforming use and shall be governed under this Article and shall be treated the same as all other nonconforming uses, except that this Section shall not apply to any use which has been officially granted a Special Exception by the Board of Appeals pursuant to Article 10.

**803      Nonconforming Use Permits**

All nonconforming uses and nonconforming buildings and structures as defined in Article 2, shall be eligible for a Nonconforming Use Permit. Such a permit shall be issued by the Town Zoning Administrator, if, after due investigation, he is convinced that the use and/or building or structure lawfully existed on the date of this Ordinance. The character, nature and extent of the non-conformity shall be carefully documented by photographic and other means by the Zoning Administrator, at the time the permit is issued and a file shall be kept thereon by the Zoning Administrator.

**804      Application**

- A.      It shall be the responsibility of the person seeking the permit to apply for it on forms provided by the Zoning Administrator. The permit shall show the exact specifications of the nonconforming use and/or building or structure on the face thereof, and shall be good only for such specifications, dimensions and use.
  
- B.      All such permits must be issued nine months after the effective date of this Ordinance, and any nonconforming uses and/or buildings or structures which have not obtained a permit within nine months of the effective date of this Ordinance, shall forfeit their nonconforming status, and shall be treated as any other uses, buildings or structures, subject to the terms of this ordinance, except that application for such permit may be accepted after nine months for good cause shown.

**805      Alteration, Expansion or Extension**

- A.      No nonconforming use or nonconforming building or structure, except as provided herein, shall be altered, expanded, replaced, or extended in any way.
  
- B.      It is the specific intent of this Article to permit the continuation, under the terms hereof, of uses lawfully existing upon the effective date of this Ordinance, in order to prevent hardship or confiscation. It is not the intent of this Article to permit development, in any degree whatsoever, in contravention of the other provisions of this Zoning Ordinance under the guise of the nonconforming use.
  
- C.      A use of land, building or structure which does not conform to the provisions of Article 4, Section 405, Use Regulations, shall not be altered, replaced, reconstructed, extended or enlarged except in accordance with the provisions hereof, and any alteration, replacement, reconstruction, extension or enlargement shall result in forfeiture of the nonconforming status, and thereafter the use shall be treated the same as any other use, subject to the terms of this ordinance.
  
- D.      A building, structure, or lot, except a mobile home, which does not conform to the provisions of this Ordinance, other than Article 4, Section 405, Use regulations, and which is not involved in a nonconforming use, may be altered, replaced, reconstructed or enlarged, provided that its nonconformity is not increased by such alteration, replacement, reconstruction or enlargement. This paragraph shall not apply to any building or structure which contains a nonconforming use. Such a building or structure, except a mobile home, shall be governed under subsection 805C hereof. No mobile home shall be altered, replaced, reconstructed or enlarged under any circumstances.

**806**      **Restoration**

- A.      Any building or structure which contains a nonconforming use which is designated by the letter "N" in Article 4, Section 405, Table of Use Regulations, and which is damaged by fire or other natural causes to the extent of more than thirty percent (30%) of its market value at the time the damage occurred, shall forfeit its nonconforming status, and shall not be permitted to resume the nonconforming use thereafter, and shall be treated as any other building, or structure, subject to the terms of this ordinance.
  
- B.      Any building or structure which contains a nonconforming use which is designated by the letters "SE" in Section 405, Article 4, Table of Use Regulations, and which is damaged by fire or other natural causes to the extent of more than sixty percent (60%) of its market value at the time the damage occurred shall forfeit its nonconforming status. Thereafter, the use shall be continued only if the Board of Appeals grants a Special Exception, under Article 10 hereof, and the building and structure is repaired or restored in such a way that its nonconformity, if the building itself was nonconforming, is not altered, changed or increased beyond the extent which existed at the time of the damage. The reconstructed structure shall not exceed the height, area or volume of the damaged structure unless such expansion shall be approved by the Board of Appeals as a Special Exception under Article 10 hereof.
  
- C.      Structures, except mobile homes, damaged to the extent of less than seventy-five percent of their market value at the time the damage occurred may be reconstructed, repaired or used for the same nonconforming use without action of the Board of Appeals, but in no event shall the reconstruction, repair or restoration result in any alteration, reconstruction or enlargement of the nonconforming use, or the nonconformity of the building or structure.
  
- D.      A structure which does not contain a nonconforming use, which is damaged by fire or other natural causes may be restored, reconstructed, or repaired, irrespective of the amount of damage. All such reconstruction or repairs shall be subject to the following provisions, if the structure is nonconforming:
  - 1.      Reconstructed structures shall not exceed the height, area or volume of the damaged structure.
  - 2.      Reconstruction shall begin within one year from the date of damage and shall be carried out without interruption.
  - 3.      All such reconstruction shall comply with all other provisions of this Ordinance.

**807      Abandonment**

Whenever a nonconforming use has been discontinued or abandoned for a period of one year, it shall be deemed to forfeit its nonconforming status and such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Ordinance.

**808      Changes**

- A.      If a structure or building containing a nonconforming use is changed so as to contain a conforming use, the nonconforming status shall be forfeited, and the building and/or structure or land shall not be permitted to revert to a nonconforming use.
  
- B.      The Board of Appeals may grant, pursuant to Article 10, permission to change one nonconforming use to another nonconforming use if the applicant shows to the satisfaction of the Board that the proposed new use will be no more objectionable in external effects than the existing nonconforming use in regard to the various criteria set forth in Article 10, Section 1006.

**ARTICLE 9. ADMINISTRATION**

**900      Zoning Administrator-Duties and Powers**

The Zoning Administrator shall be the agent of the Town Government and shall administer and enforce the provisions of this Ordinance, under the direction of the Mayor and Town Council. The Zoning Administrator shall be appointed by the mayor and confirmed by the Town Council, and may be removed by the mayor, with the consent of the Town Council, or by the Town Council. Wherever the Zoning Administrator is authorized to take any action or is required to take any action under this Ordinance, said action can be taken in his stead by the mayor or his designee, by the Town Attorney or by any member of the Town Council so designated by the Mayor and Town Council. Wherever the term "Zoning Administrator" is used in this Ordinance, the term shall include the mayor or his designee, the Town Attorney and any member of the Town Council so designated. It shall be the duty of the Zoning Administrator and he shall have the power and duty, under the general supervision of the Town Government, to:

- A.      Receive and examine all applications for zoning permits.
  
- B.      Issue permits only where there is compliance with the provisions of this Ordinance and with other Town Ordinances, permits for uses requiring a Special Exception or variance shall be issued only upon order of the Board of Appeals.
  
- C.      Receive applications for Special Exceptions, submitted under the provisions of Article 10, and promptly submit these to the Mountain Lake Park Planning Commission for its comments, and to the Board of Appeals, along with the Planning Commission's recommendations, for action thereon by the Board of Appeals.
  
- D.      Receive applications for interpretation of his orders, for appeals therefrom, and for variances, and to promptly forward these applications to the Board of Appeals for action thereon.
  
- E.      Conduct inspections and to cause surveys to be made to determine whether there is compliance with the terms of this Ordinance.
  
- F.      Issue stop, cease and desist orders, and other orders in writing for the correction of any and all conditions found, by him, or by the Town Government, to be in violation of the provisions of this Ordinance. Such written orders shall be served personally, by the Zoning Administrator, by a proper process server, or by certified mail upon the person(s), firm(s) or corporation (s) deemed by the Zoning Administrator, or by the Mayor and Town Council, to be violating the terms of this Ordinance.

- G. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Administrator, or the Town Government, or the Mayor and Town Council, and any persons so violating such order shall be guilty of a violation of this Ordinance.
- H. With the approval of the Mayor or Town Council, or when directed by them, to institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any structure or building, and to restrain, correct or abate such violations as to prevent the occupancy of any such building, structure or land, or to prevent any illegal act, or conduct business or use in or about such premises.
- I. Revoke, by order, a zoning permit issued under a misstatement of fact or contrary to the law or the provisions of this Ordinance.
- J. Record file and keep in a place set aside in his office all applications for zoning permits with accompanying plans and documents. All applications, plans and documents shall be a public record.
- K. Keep and maintain the official Zoning Map or maps showing the current zoning classification of all land in the Town.
- L. Keep and maintain records of all nonconforming uses and Special Exception uses in the Town and a file on each such use.
- M. Keep and maintain in a place set aside in his office a complete record of all additions or amendments to this ordinance, including these regulations, the Zoning Map, subdivision regulations, and any other rules and regulations pertaining thereto, and provide for the sequential numbering of all adopted changes or amendments to this ordinance, including these regulations, the Zoning Map, any subdivision regulations, or any other rules and regulations pertaining thereto.
- N. Upon the direction of the Mayor and Town Council, the Planning Commission, or the Board of Appeals, present to such body's facts, records or reports which they may request to assist them in making decisions or in carrying out their responsibilities.
- O. Consider applications for nonconforming use permits, and to issue same if he is convinced that the use and/or building and structure lawfully existed upon the effective date of this Ordinance, and to refuse the issue of the same if he is not so convinced.

- P. To assure that each nonconforming use permit issued by his office contains the exact specifications of the nonconforming use and/or building and/or structure, so that full documentation as to the extent, nature and character, of the nonconforming use and/or building and/or structure is recorded, and to maintain said records.
- Q. To enforce any and all conditions precedent placed by the Board of Appeals upon any action taken by the Board, including the granting of a variance, a Special Exception, permission to change one nonconforming use to another nonconforming use, and permission to continue a nonconforming use under Section 8, and maintain a complete record of each condition precedent so imposed by the Board.

**901      Zoning Permits**

- A. Hereafter, no structure (except certain signs as provided in Article 7) shall be erected, constructed, reconstructed, altered or moved; no land or building used or occupied and no land or building changed in use, until a zoning permit has been secured from the Zoning Administrator. In the event a permit is issued, and upon completion of changes in use and construction, reconstruction or moving of structures, the applicant shall notify the Zoning Administrator of such completion. No permit shall be considered as complete or permanently effective until the Zoning Administrator has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Ordinance, and the permit has been signed by a member of the Town Council, designated by the Mayor and Council for that purpose. No such permit shall be issued unless all fees required, including any sewer tap fee, shall have been paid in advance.
- B. The Zoning Administrator may grant a permit for a nonconforming temporary building or use accessory or incidental to a construction project when such building or use is reasonably required for such project. Such temporary permit shall terminate at the time of the completion of the project, but in no event shall such a temporary permit be valid for more than one year.

**902      Application Requirements for Zoning Permits**

All applications for zoning permits shall be made in writing by the owner, vendee under contract of sale, or authorized agent on a form supplied by the Town and shall be filed with the Zoning Administrator.

**903**        **Fees**

All applicants for zoning permits, Special Exceptions and interpretation and variance appeals shall, at the time of making application, pay to the Town Clerk for the use of the Town, a fee in accordance with a fee schedule adopted by resolution of the Town Council, or as such schedule may be amended by resolution of the Town Council.

**904**        **Life of a Permit**

Any erection, construction, reconstruction, alteration or moving of a building or other structure, including a sign authorized by a zoning permit, shall be commenced and any change in use of a building or land authorized by a zoning permit shall be undertaken within one year after date of issuance of the permit. If not, the permit shall be considered null and void, and any and all fees paid hereunder shall be non-refundable.

**ARTICLE 10. BOARD OF APPEALS**

**1000      Establishment of Board**

To provide for the competent interpretation and the full and equitable achievement of the purposes of this Ordinance, there is hereby established a Board of Appeals.

**1001      Membership, Terms of Office**

The Board shall consist of three members. The terms of office of the members shall be three years. Members shall be appointed by the mayor, confirmed by the Town Council, and removable for cause upon written charges and after public hearing. The mayor shall designate one alternate member to sit on the Board in the absence of any member of the Board.

**1002      Procedures, Meetings, Records and Decisions**

- A.    Procedures: The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules in accordance with the provisions of this Ordinance and any applicable laws of Maryland for the conduct of its affairs.
  
- B.    Meetings: Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meeting of the Board shall be open to the public. Two members present shall constitute a quorum.
  
- C.    The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record. All actions or decisions of the Board shall be taken by resolution in which two members, present during the proceedings, must concur. Each resolution shall contain or be appended to a statement of grounds and any findings forming the basis of such action or decision.

**1003      Who May Appeal to the Board**

Appeals to the Board may be taken by any person aggrieved by, or by any officer, department, board or bureau of the Town affected by, any decision of the Zoning Administrator. Nothing in this Section should be construed as contravening the provisions set forth in Article 9, Section 900, designating the Zoning Administrator as an

agent of the Town Government, and placing him under the direction of the Mayor and Town Council.

**1004      Powers and Duties-Interpretation**

Upon appeal from a decision by the Zoning Administrator, the Board shall decide any question:

- A.      Where it is alleged there is error in any order, requirement, decision or determination, including any order requiring an alleged violation to stop, cease, and desist, made by the Zoning Administrator in the enforcement of this Ordinance, or
- B.      Involving the interpretation of any provisions of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

**1005      Powers and Duties-Variances**

- A.      Upon appeal from a decision by the Zoning Administrator and accompanied by a request for a variance, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions whereby such strict application would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of the land or building involved, but in no other case.
- B.      In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C.      No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the following requirements and standards are satisfied.

The appellant must show that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if is not granted. In particular, the appellant shall establish and substantiate his appeal to show that the variance is in conformance with the requirements and standards listed below:

- 1.      That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

2. That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
  3. That special circumstances or conditions, fully described in the findings, apply to the land or buildings for which the variance is sought, which circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building or create unnecessary hardship. If the hardship is general, that is, shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of any attack on the validity of the Ordinance.
  4. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance, it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
- D. The Board may prescribe any safeguard that it deems appropriate or necessary to secure substantially the objectives of the regulations or provisions to which the variance applies. Any conditions set by the Board under the provisions hereof, shall be conditions precedent, and the variance granted by this Section shall not become effective until such conditions are carried out in full. In the event that the conditions are not fully carried out, and/or kept and maintained as required, no action can be taken on the property based on the variance granted, and the nonconforming status of the property, if any, shall be forfeited, and thereafter the property shall be treated as any other property.
- E. Persons with Disabilities After having received a complete written application, the Board may grant a variance allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons whom the applicant proves have "disabilities" as defined in and protected by such laws.

**1006      Powers and Duties-Changing of One Nonconforming Use to Another Non-Conforming Use**

- A.      Upon appeal from the decision of the Zoning Administrator, that a person is or would be in violation of this Zoning Ordinance, by changing one nonconforming use to another nonconforming use, the Board shall have the power to approve the change, but only under the following conditions and circumstances.
  
- B.      The Board shall not entertain a request to change a nonconforming use designated by the letters "SE", in Section 405, Article 4, Table of Use Regulations, to a use which is designated by the letter "N", in Section 405 thereof.
  
- C.      The Board shall grant the change, only if the applicant shows to the satisfaction of the Board that the proposed new use will be no more objectionable in external effects than the existing nonconforming use in regards to the various criteria set forth in subsection 1006-D hereof.
  
- D.      Before granting the requested change, the Board must be satisfied that the proposed new use will be no more objectionable with regard to the following specific criteria:
  - 1.      Traffic generation and congestion, including truck, passenger car, and pedestrian traffic.
  - 2.      Noise, smoke, dust, fumes, vapors, gases, heat, odors, glare or vibration.
  - 3.      Storage and waste disposal.
  - 4.      Appearance.
  - 5.      Compatibility with the neighborhood.
  
- E.      The criteria set forth in subsection 1006-D hereof are designated minimal requirements only. A showing that each of these specific requirements has been met, does not entitle an applicant to approval by the Board for changing one nonconforming use to another nonconforming use.
  
- F.      In granting the proposed change, the Board may impose whatever conditions it deems necessary and appropriate to make the continued new nonconforming use as compatible as possible with the rest of the neighborhood in which it is located, including alterations to the exterior of any building, changes in any traffic flow, or parking, upon the property, the construction of screening, fencing, planting of shrubbery, and any other such conditions. Any conditions set by the Board under

the provisions hereof, shall be conditions precedent, and the change granted under this Section shall not become effective until such conditions are carried out. In the event that the conditions are not fully carried out and/or kept and maintained, and the change has been made, the nonconforming status of the property, if any, shall be forfeited, and thereafter the property shall be treated as any other property.

**1007      Powers and Duties-Special Exceptions**

- A.      The Board shall have the power to approve Special Exceptions for any of the uses for which this Ordinance requires obtaining of such Exceptions and for no other use or purpose. The Board shall not grant a Special Exception except in conformance with the conditions and standards of this Ordinance.
  
- B.      In granting a Special Exception, the Board shall make findings of fact consistent with the provisions of this Ordinance. The Board shall grant a Special Exception only if it finds adequate evidence that any proposed use submitted for a Special Exception will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location be:
  - 1.      In accord with the Town's Comprehensive Development Plan and consistent with the spirit, purposes, and intent of this Ordinance.
  - 2.      Suitable for the property in question, and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
  - 3.      Suitable in terms of effect on street traffic, present and future transportation patterns, and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - 4.      Population changes.
  - 5.      Availability of public facilities.
  - 6.      Recommendation of the Planning Commission.
  
- C.      In granting the proposed Special Exception, the Board may impose whatever conditions it regards as necessary and appropriate to make the Special Exception as compatible as possible with the rest of the neighborhood in which it is located, and to insure that any proposed developments will secure substantially the objectives of this Ordinance, including alterations to the exterior of any building,

changes in traffic flow, or parking, upon the property, the construction of screening, fencing, planting of shrubbery, and any other such conditions. Any conditions set by the Board, under the provisions hereof, shall be conditions precedent, and the Special Exception granted hereunder shall not become effective until such conditions are fully carried out and/or kept and maintained, and any such Special Exception shall be void and any development carried out pursuant thereto shall be illegal insofar as it is not in strict compliance with the provisions of this Ordinance.

**1008      Rules for Filing Appeals and Applications**

- A.      General Rules
  - 1. Any appeal shall be made by filing the same with the Zoning Administrator within thirty days after the date of the Zoning Administrator's decision.
  - 2. All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
  - 3. All appeals and applications shall list names and addresses of all adjoining owners including those across the streets from the subject property.
  - 4. All appeals and applications shall refer to the specific provisions of the Ordinance involved.
  
- B. Appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the interpretation that is claimed.
  
- C. Appeals for variance from the strict application of this Ordinance shall include a copy of the zoning permit application denied by the Zoning Administrator, if any, together with a statement with any supporting data regarding the applicable requirements in Sections 1005 and 1006 or any other applicable requirements.
  
- D. Applications for Special Exceptions shall include a zoning permit application with all information required therein and a statement with any supporting data regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

**1009      Notice of Hearings**

Upon transmittal to the Board of an application filed with the Zoning Administrator for a Special Exception, variance or appeal from alleged error of the Zoning Administrator,

the Board shall fix a reasonable time (not less than fifteen days nor more than forty-five days from the transmittal date) for a public hearing thereon and give notice as follows:

- A. Publish a notice containing the name of the applicant or appellant; the date, time, and place fixed for the hearing; and a brief statement of the Special Exception sought by the applicant, or the error alleged by the appellant, or of the variance or other question which is subject to appeal, in at least one newspaper of general circulation within the Town, once each week for two successive weeks, with the first such publication of Notice appearing at least fourteen (14) days prior to the hearing.
- B. Post in a conspicuous place on the property involved, a notice of pending action containing the same information as in subsection 1009-A above, such posting to take place at least fifteen days prior to the date fixed for the public hearing.
- C. Give the written notice of the time and place of such hearing sent by certified mail to the applicant or appellant and to the owners of record of property contiguous to or opposite the property affected.

**1010 Review by the Planning Commission on Applications for the Special Exceptions, Variances and Interpretations**

- A. The Zoning Administrator shall submit to the Board an advisory opinion from the Planning Commission on any application for a Special Exception and the Board shall consider such advisory opinion prior to making a decision on an application.
- B. The Board shall also request an advisory opinion from the Planning Commission on any application for a variance, interpretation, appeal or any other matter upon which the Board is or may be required to act.

**1011 Decisions by the Board-General Considerations**

- A. Decisions by the Board shall be rendered within fifteen working days of the hearing on said variance, application, exception, interpretation or appeal, unless a later date is mutually agreed upon by the Board and applicant.
- B. In exercising its powers concerning interpretation appeals, the Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

- C. In making its decisions pursuant to the authority conferred by this Ordinance, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony for and against the issuance of the permit. The application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or chance of use would adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board may give consideration, among other things, to the following:
  - 1. The orderly growth of the community, as expressed in the Comprehensive Development Plan or otherwise.
  - 2. The number of people residing or working in the immediate area concerned.
  - 3. Traffic conditions and facilities.
  - 4. The effect of such use upon the peaceful enjoyment of their homes and property by surrounding property owners and residents.
  - 5. The conservation of property values.
  - 6. The effect of odors, dust, gases, smoke, fumes, vibrations, glare and noise upon the surrounding property values.
  - 7. The most appropriate use of land and structure.
  - 8. Decision of the courts.
  - 9. The purpose of these regulations as set forth herein.
  - 10. Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

**1012 Enforcement**

In any case where the Board of Appeals has set conditions precedent upon the granting of a variance, Special Exception, permission to change one nonconforming use to another nonconforming use, permission for the continuation of a nonconforming use, such conditions precedent shall be fully fulfilled and executed prior to the grant of the Board of Appeals becoming effective. In the event that such conditions precedent set by the Board are not carried out in full, the grant, permission, Special Exception, or other action taken by the Board shall not be effective, and the property or structure shall be

treated as if the Board's action had never been taken. In the event that the conditions precedent is not carried out within a period of three months from the date of grant, the Board shall have the authority through the Town's attorney and Zoning Administrator, to enforce the Town's Zoning Ordinance as against the structure or property as if the Board had never taken action.

**1013      Time Limitations on Board Appeals**

A decision of the Board permitting the erection or alteration of a building shall be valid for a period of one year, unless a zoning permit for such erection or alteration is obtained within said period and the erection or alteration proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting further uses of a building or land shall be valid for a period longer than one year, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning permit for such erection or alteration is obtained within said period, and such erection or alteration proceeds to completion in accordance with the terms of the decision.

**1014      Time Limits on Re-Submitting Appeals**

If an application is disapproved, thereafter the Board shall not receive or act upon the same application or another application for substantially the same proposal on the same premises until after twelve months from the date of said disapproval.

**1015      Appeal to Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer of the Town or any officer, department, board or bureau of the Town may appeal the same to the Circuit Court for Garrett County.

**1016      Abandonment of Special Exceptions**

If any Special Exception granted by the Board under the provisions of this Article is substantially abandoned, or in any case, if the use represented by such a Special Exception is discontinued for a period of more than one year, the Special Exception granted by the Board under the provisions of this Article shall become null and void, and thereafter the property shall revert to its former zoning status. Thereafter, said Special Exception shall not be reinstated, nor the use thereunder resumed, unless a new Special Exception is granted by the Board under the provisions of this Article.

**1017      Failure to Keep or Maintain Conditions Precedent**

If any variance, change from one nonconforming use to another nonconforming use, continuation of a nonconforming use or Special Exception granted by the Board under the provisions of this Article is granted subject to conditions precedent, the conditions precedent must be carried out in full in accordance with the terms hereof, and must thereafter be kept and maintained for as long as the variance, change from one nonconforming use to another nonconforming use, continuation of a nonconforming use or Special Exception is in effect. In the event that any such condition precedent is not kept or maintained, is allowed to lapse, or fall into disrepair, the variance, change from one nonconforming use to another nonconforming use, continuation of a nonconforming use or Special Exception granted by the Board under the provisions of this Article shall become null and void, and thereafter the property shall revert to its former zoning status. Thereafter, the said variance, change from one nonconforming use to another nonconforming use, continuation of a nonconforming use or Special Exception shall not be reinstated, nor the use thereunder resumed, unless a new Special Exception is granted by the Board under the provisions of this Article.

**ARTICLE 11. AMENDMENTS, REMEDIES AND PENALTIES, AND SEPARABILITY**

**1100      Power of Amendment**

The Town Council may from time to time amend, supplement, change, modify or repeal the Comprehensive General Plan, this Ordinance or any part thereof, including the Zoning Map. When doing so the Town Council shall proceed in the manner prescribed in this Article.

**1101      Who May Initiate**

Proposals to amend, supplement, change, modify, or repeal may be initiated by the Town Council on its own motion, or by any member thereof, by the Mayor, the Planning Commission, if by a majority of its members, or by petition of one or more owners of property which is the subject of the proposed amendment, if by change to the Zoning Map; and shall be subject to the following provisions:

A.      Proposals originated by the Town Council any member thereof or the Mayor

Any proposal originated by the Town Council, by its own motion, or any member thereof, or by the Mayor of the Town, shall be referred immediately by the Town Council to the Planning Commission. Within thirty days of the referral of the said proposal, whether to amend, supplement, change, modify or repeal, the Planning Commission shall submit to the Town Council a report containing the Commission's recommendations, which may include any suggestions the Commission may wish to make for additions or modifications to the original proposal.

B.      Proposals originated by the Planning Commission

The Planning Commission may, at any time transmit to the Town Council any proposal for the amendment, supplementation, change or modification, or repeal of this Ordinance, and shall accompany any such proposal with a written report, stating its reasons therefor, and any additional information it may wish to submit with the proposal.

C.      Proposals originated by a Citizen

1. Each petition by one or more owners of the property which is the subject of a proposed amendment, supplementation, change, or modification, to the Zoning Map, shall be submitted to the Zoning Administrator on forms provided therefor. The Zoning Administrator shall transmit such petitions to the Town Council, and a copy thereof to the Planning Commission.

- 2. The Planning Commission may at its discretion, notify the Town Council of its intention to conduct promptly a public hearing on any such petition. Within thirty days following receipt of such petition, or if a public hearing is held, within thirty days following such hearing, the Planning Commission shall transmit to the Town Council a report containing its recommendations thereon, which may include additions or modifications it may wish to suggest to the original proposal.
  - 3. The Town Council shall then proceed in accordance with Section 1103 below.
- D. In any instance where this Ordinance requires a written report from the Planning Commission, the Planning Commission shall consider any Findings of Fact required by this Ordinance for a decision on any given proposal, and shall make recommendations with respect to each finding of fact, in writing, and shall supply such technical data and information as it deems necessary and appropriate, in its report.

**1102      Fees**

All applicants petitioning under subsection 1101-C above, for amendment to the Zoning Map shall, at the time of making application, pay to the Zoning Administrator for the use of the Town, a fee in accordance with a fee schedule adopted by resolution of the Town Council upon enactment of this Ordinance, or as such schedule may be amended by resolution of the Town Council.

**1103      Public Hearing and Notice**

No amendment, supplement, change, modification, or repeal shall become effective until ten days after a public hearing by the Town Council in relation thereto at which the parties in interest and citizens shall have an opportunity to be heard, and of which a complete record shall be kept. Notice shall be given as follows:

- A. Publish a notice containing the name of the applicant, if any; the date, time, and place of the hearing, and a summary of the proposed change (regulation, restriction or boundary) in at least one newspaper of general circulation in the Town, once each week for two successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.
- B. When such hearing concerns a Zoning Map change, a notice of pending action containing the same information as in subsection **1103-A** above, shall be posted in a conspicuous place on the property involved, such posting to take place at least fifteen days prior to the date fixed for public hearing.

- C. When such hearing concerns a Zoning Map change, written notice of the time and place of such hearing shall be sent by certified mail to the applicant, if any, and to the owners of property contiguous to and opposite the property affected.
- D. At the discretion of the Town Council, written notices of hearing may be sent to other interested persons, organizations or agencies.

**1104 General Criteria**

The Town Council shall consider and make findings of fact with respect to the following general criteria when considering any request or petition to amend, supplement, change, modify, or repeal this regulation or any part or section thereof, or any part or section of the Zoning Map:

- A. The effect of the proposed amendment, supplement, change, modification, or repeal upon the public health, safety, morals and general welfare of the community and its present or future inhabitants.
- B. Whether the proposed amendment, supplement, change, modification or repeal is in harmony with the general purpose and intent of the adopted plan of the Town and the overall scheme of these regulations.
- C. The possibility of traffic generation and congestion, including truck, passenger car and pedestrian traffic, as well as present and future transportation patterns.
- D. The generation of noise, smoke, dust, fumes, vapors, gases, heat, odors, glare or vibration.
- E. The effect of the proposed amendment, supplement, change, modification or repeal upon any historic district, area or building within the Town.
- F. Any population changes.

**1105 Amendments to the Zoning Ordinance-Regulations**

When considering an application for an amendment to this Ordinance, in the form of an amendment, supplement, change, modification, or repeal of these regulations, the Town Council shall be acting as a legislative body, and shall take into account such additional general considerations as may be appropriate to the legislative change, including, but not limited to, the following, and shall make Findings of Fact thereon:

- A. The report and recommendations of the Planning Commission.

- B. Any changes in the character of the Town, which would make the proposed change to these regulations beneficial and legislatively appropriate.
- C. The harmony and relationship of the proposed change to the remaining sections of this Ordinance and the intent thereof.
- D. Whether the proposed change would operate to impose an extreme hardship, or a confiscation upon any particular property or any particular properties.
- E. Whether the proposed change might result in future development which would adversely affect the character of any neighborhood, or the character or developmental direction of the Town of Mountain Lake Park.

**1106 Amendments to the Zoning Map**

When the Town Council sits to consider an application requesting a change in the Zoning Map which would operate to specifically rezone one or more pieces of individual property, it shall sit in a quasi-legislative capacity, and shall make its decision in accordance with this Section, and Section 1104.

- A. Mistake in the Original Zoning
  - 1. If the application for the specific rezoning alleges that there was a mistake in the classification (i.e., zoning) of the subject property, the Council shall consider and make findings of fact upon the following specific issues:
    - a. The report and recommendations of the Planning Commission.
    - b. The adopted plan of the Town, and the reason, if any set forth therein, for the classification of the property when originally zoned.
    - c. The testimony, if any is available, of any member of the Planning Commission and/or Town Council, or the mayor, as to why the subject property was classified as it was when originally zoned.
    - d. Any documents, plats, or information which may be available, which may shed some light on the reasons the subject property was so classified when originally zoned.
    - e. Any other information which may bear upon the reasons for the classification of the property when originally zoned, including its appropriateness.

- f. Whether the owner or owners are denied reasonable use of the property under its present zoning classification.
- 2. If the Council shall determine that there was no mistake in the original zoning, it shall deny the requested map amendment.
- 3. The Council may enact the proposed map amendment if it determines there was a mistake in the original zoning, based upon its Findings of Fact as required herein, but an affirmative finding in each category shall not automatically compel the rezoning requested.

B. Change in the Character of the Neighborhood

When considering an application for a map amendment, based upon the petitioner's claim that there has been a substantial change in the character of the neighborhood where the property is located, the Council shall consider and make findings of fact on the following issues and matters:

- 1. The report and recommendations of the Planning Commission.
- 2. Population changes in the area of the proposed change.
- 3. Availability of public facilities such as police and fire protection, water and sewerage service the area, and any change in the availability of said services.
- 4. Present and future transportation patterns in the area.
- 5. Compatibility with existing and proposed development in the area.
- 6. The relationship of the proposed amendment to the adopted plan for the Town, and whether any of the alleged changes in the character of the neighborhood has impacted upon the adopted plan for the Town.
- 7. Whether there has been a convincing demonstration that the proposed map change would be appropriate and logical for the subject property.
- 8. Whether, assuming there has been a change in the character of the neighborhood, the said change has made the neighborhood more or less compatible with the uses which would be permitted should the proposed map amendment be adopted.

**1107      Action by the Town Council**

- A.      The Town Council may approve or deny the proposed amendment, modification, repeal, or reclassification based upon the Finding of Fact as required herein. A complete record of the findings and of the vote of all members shall be kept.
  
- B.      When considering a request for a map amendment, based upon the petitioner's contention that there has been a change in the character of the neighborhood, the Town Council may entertain any offer by the petitioner that the petitioner is willing to agree to conditions precedent being set by the Town Council if, based upon its findings of fact, it should agree to reclassify the subject property. Under such an agreement, the Council may impose such additional restrictions, conditions, or limitations as may be appropriate to preserve, improve, or protect the general character and design of the land and improvements being zoned or rezoned, or of the surrounding or adjacent land and improvements, and may, upon the zoning or rezoning, and pursuant to such an agreement, retain or reserve the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes to be made on the subject land to assure conformity with the intended purpose of this Ordinance and of the adopted plan of the Town, and to effectuate the agreement. In the event such an agreement is reached, it shall be reduced to writing, and thereafter all stated conditions shall be conditions precedent and the requested map change shall not become finally effective until all such conditions are carried out in full. In the event all such conditions are not carried out in full, the map change shall become null and void and the property shall revert to its former classification.

**1108      Procedures for Maintaining Commercial (C) District Zoning Once Granted**

The procedure for maintaining any change of the zoning Classification of land to a Commercial (C) District duly enacted and adopted as an amendment pursuant to this Article, such change having been petitioned by persons other than the Town Council or Planning Commission, shall be as follows:

- A.      Within one year of the granting of Commercial (C) District Zoning, application shall be made for a zoning permit for use of the said land; otherwise, the zoning for the Commercial (C) District shall revert automatically to its prior district classification without notice and public hearings.
  
- B.      Within one year of issuance of zoning permits, construction or use shall be commenced on the land so zoned; otherwise, the zoning for the Commercial (C) District shall revert automatically to its prior district classification without notice and public hearings.

- C. Within two years of the issuance of zoning **permits for the land so zoned**, the subject land shall be substantially devoted to such use or uses as may be permitted in the zoning districts; otherwise, the zoning for the Commercial (C) District shall revert automatically to its prior classification without notice and public hearings.

**1109      Enforcement**

- A. Violation of any provision(s) of this ordinance is a municipal infraction and is subject to the Enforcement Ordinance and the fines or penalties provided in the Resolution of Fines for Municipal Infractions. The Mayor and Town Council may change the number of fines and penalties in the Resolution of Fines for Municipal Infractions after the changes have been duly posted in accordance with the policy of the Mayor and Town Council of Mountain Lake Park for advertising for the adoption of resolutions.
  
- B. The Town, upon proper order from the District Court of Maryland, shall have the right, in addition to other remedies or penalties set forth in these regulations, to enter upon said property and to remove the offending violation(s) and to assess the property owner for the cost thereof, and such assessment shall be collectable under the laws of Maryland as in any other legitimate Town charge or assessment.

**1110      Separability**

It is hereby declared to be the legislative intent that the provisions of this Ordinance are separable, whereby:

- A. If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the provision expressly stated in the court's decision, and all other provisions of this Ordinance shall continue to be separately and fully effective, the Mayor and Town Council hereby declaring that they would have adopted the remaining provisions without the word, phrase, clause, items, sentence, paragraph or section, or the application thereof, so declared invalid.
  
- B. If a court of competent jurisdiction finds the application of any provision of this Ordinance to any lot, building or other structure, or tract of land to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the court's decision, and the application of any such provision to other persons, properties or situations shall not be affected thereby.