

ORDINANCE O-11-01

AN ORDINANCE TO AMEND TEXT SECTIONS OF THE LAND USE CODE, TITLE XV OF THE CODE OF ORDINANCES OF THE TOWN OF BLACK MOUNTAIN

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning, and subdivision regulations; and

WHEREAS, The Planning Board made a commitment to the Board of Aldermen to review the text of the Land Use Code in the year since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board the following text amendments are requested in order to carry out the vision statements of the 2004 Comprehensive Plan;

NOW THEREFORE the Code of Ordinances, Title XV, of the Town of Black Mountain is hereby amended with the following (additions are in italics and deletions are shown as struck text):

1. Section 1.7.1 General Procedures for the Zoning Board of Adjustment – adjust scheduling language to account for regularly scheduled meetings (instituted in FY10/11).

Recommendations for Change or Suggested Text:

- A. Upon receipt of a complete application, the Planning and Development Department shall *forward the application to the Zoning Board of Adjustment according to the following procedures:*
1. The Zoning Board of Adjustment shall hold a public hearing regarding applications *once ~~within thirty (30) days of the date~~ the completed application and accompanying fees are received by the Planning and Development Department and proper notification (see below) can be published for the next regularly scheduled Zoning Board of Adjustment Meeting. Special Hearings may be scheduled at the direction of the Zoning Board of Adjustment Chair.*

Also add updated ZBA Rules of Procedure to the list of Appendices.

2. Section 1.2.3 Definitions and Placement in Permitted Uses Tables of Section 4.6 Zoning Districts:

- a. **Amend:** RESTAURANT, BREW PUB/TAVERN: An establishment in which beer, ale, porter and other fermented malt beverages are produced and sold onsite *as part of a restaurant operation in accordance with state and local laws.*

Allow in Central Business, Highway Business, Traditional Neighborhood Development, Office-Institutional, and industrial Districts.

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

Allow in the Central Business District, Highway Business District, Traditional Neighborhood Development District, Office-Institutional District and Industrial Districts.

- c. **Amend:** *SHARED HOUSING ARRANGEMENTS/COMMUNITY LIVING: Dwellings, ~~or combination of medical or other facilities and dwellings~~, that offer communal areas and services such as housekeeping, transportation, organized social and recreational activities, and other support services for seven or more residents *but excluding assisted living facilities for the elderly or other medical facilities*. See also GROUP HOME. and. ~~This term shall include the following:~~ **(strike subsequent sub-categories).***

Allow in UR-8, O-I, ICD, NMU, HB, LI.

- d. **Amend:** *COTTAGE HOUSING DEVELOPMENTS: A cluster of detached structures which are no larger than ~~1,000~~ 1,100 square feet and which share common driveways, yards, and other exterior facilities."*

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

- f. **Amend:** *GROUP HOME ~~or Group Care Facility~~: A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals ~~are disabled, aged, or are undergoing rehabilitation~~ are provided services to meet their needs such as halfway houses and foster homes so long as they house seven or more individuals *and are distinct from Group Homes from Developmentally Disabled Adults or Adult Care Homes*. Similar facilities providing care for less than seven individuals shall be treated as a single family residence under zoning district regulations.*

Allow in O-I, ICD, NMU, HB, LI.

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

Allow in Heavy Industrial District; and as a Conditional Use in Light Industrial District.

3. Add to: Section 2.1.11.B.1. Building Regulations Fee Incentives

Contact the Western North Carolina Green Building Council website for up to date information at www.wncgbc.org.

Also add WNCGBC brochure to list of appendices.

4. Add to: Section 4.2.3.C Zoning Permit not Required. A Zoning Permit is not required, notwithstanding any other provisions of this ordinance, for the following:

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

5. Delete from: Section 4.3.3.J. Strike paragraph “J” as it repeats previous paragraph “F.”

6. Section 5.2.E Regarding Accessory Structures

Amend E sub-paragraph 2e: “For lots that are adjacent to Town or State roadways, accessory structures shall be located only in side or rear yards. *For lots that are not adjacent to roadways, but only connected by a driveway (such as with a flag lot or interior lot that has been subdivided from a larger parcel), then accessory structures may be located in what is determined as the front yard by the zoning Administrator. The accessory structure may be located no further forward than the primary structure furthest from the road of any adjacent properties never to be less than the existing setback requirements.*”

7. Amend: Section 5.4 paragraph C-8 to read: All livestock *introduced onto a property where there is no pre-existing containment area (such as a fence, paddock, or enclosed pasture),* except for chickens, shall be fenced so that they are no closer than 150 feet from an adjacent living unit...

**8. Amend: Section 7.6 Special Use: Cottage Housing Development (CHD’s),
7.6.4 General Design requirements, Requirement I.**

Amend: Parking spaces may be spread out through the development connected to each cottage, clustered in a shared parking lot or some combination thereof at a minimum ratio of 2 spaces per unit; *clustered parking for more than 6 vehicles must be screened from public streets and adjacent residential uses by landscaping or architectural screening.*

9. Amend Section 9.3, Paragraph I to add:

“One, temporary and removable outdoor menu, exhibition, or event sign used in conjunction with restaurants, galleries, performing arts or music hall uses, may be placed on the abutting sidewalk or on a strategic location for directional purpose on private or Town property with permission. Such signs cannot exceed 6 square feet per side including sign face and support elements, must maintain a 48” or four feet of clear travel area between back of the curb and the sign, and must be removed after business hours. “

10. Section 9.5 Prohibited Signs add:

“Illegal posting of signs include any freestanding sign located in a DOT right-of-way, or located within four (4) feet of pavement of any town street or posted to a utility pole or government sign. Any illegal posting of signs, placed or attached, will be removed by Town authority and will become the property of the Town. The Town will retain such signs for seven days, during which period first-time offenders may pay \$25.00 to reclaim their sign. After those seven days and for a second or repeated offense, illegal signs shall be disposed of or destroyed.”

11. Amend: Section 8.3.2 Regarding Buffers and Screening in Landscaping

8.3.2 General Provisions

- 2. All public parking and loading areas within 50 feet of a public right of way must include a buffer that meets the buffer standards as described below. (strike altogether)

8.3.2.1 Location and Width Required

Buffers shall be located entirely on the property of the new development *along the property boundary line, but not including where roadways separate districts*, where a commercial or industrial use abuts a non-commercial residential district are required. Buffers shall be made of an opaque fence or wall that is at least 8 feet high ~~and~~ or evergreen vegetation to provide a buffer growing to a *minimum height to be above the fence and completely of 8’ high to within 3 years according to the following chart.*

New Development Adjacent to residentially zoned property (CR-1, SR-2, TR-4, UR-8):

New or Expanding Development	Minimum Buffer Width
Civic	10 feet
Commercial	15 feet
Industrial	30 feet
Mixed Use	10 feet
Multi-family Residential	10 feet

8.3.2.4 Composition for Parking lot perimeters (“Type B”)

Type B landscaping functions to provide a vegetative area between parking lots and adjacent uses *and may be used as part of stormwater management planning.* ~~as a semi-opaque screen with a minimum height of three (3) feet for screening of cars and glare from adjacent properties. The minimum height~~

~~for a Type B buffer area adjacent to street right-of-way is two (2) feet.~~ Composition of the Type B landscaping may include a planted *swale*, wall, fence, planted vegetation, existing vegetation, or any appropriate combination of *landscaping*. Shrub plantings shall have no unobstructed openings wider than four (4) feet. ~~At least 75 percent of the required shrubs shall be evergreen species.~~ The use of existing vegetation to satisfy this requirement is encouraged but supplemental planting may be required in addition to existing materials.

8.3.2.10 Screening Requirements for All Zoning Districts

The following uses must be screened from abutting *residential* property and from a public street by an opaque screen consisting of a fence, wall, landscaping, or appropriate combination thereof *in accordance with Chapter 4*, unless they are within the Heavy Industrial District (HI-0):

- Dumpsters or trash handling areas;
- where automobiles are stored before and after repairs, manufacturing parts, or scrap materials or equipment that are being stored;
- ~~Loading docks or spaces.~~

This ordinance shall become effective immediately upon its adoption.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____, this the 9th day of May, 2011.

Mayor

ATTEST:

Town Clerk