

MONTREAT CODE OF GENERAL ORDINANCES

CHAPTER A - GENERAL PROVISIONS AND ADMINISTRATION

ARTICLE I: DEFINITIONS OF WORDS AND PHRASES

Section 1. Word Interpretation: Except as specifically defined herein, all words used in this Code of General Ordinances shall have their customary dictionary definitions. For the purposes of this Code of General Ordinances, certain words or terms used herein are defined as follows:

The words “Code” and “Code of General Ordinances” shall mean the *Code of General Ordinances of the Town of Montreat, North Carolina*.

The word “Town” shall mean the Town of Montreat, North Carolina.

The word “Board” shall mean the Board of Commissioners of the Town of Montreat, North Carolina.

The words “Board of Adjustment” shall mean the Town of Montreat Zoning Board of Adjustment.

The words “Planning Board” shall mean the Town of Montreat Planning and Zoning Commission.

The words “Police Department” shall mean the Town of Montreat Police Department.

The word “may” is permissive.

The word “shall” is mandatory.

Section 2. Definitions (*Revised 02/13/2003*):

Abandoned Motor Vehicle: A Vehicle which is:

- a) left on public grounds or Town owned property in violation of a law or ordinance prohibiting parking;
- b) left for longer than twenty-four (24) hours on property owned or operated by the Town;
- c) left for longer than two (2) hours on private property without the consent of the owner, occupant, or lessee of the property; or
- d) left for longer than seven (7) days on public grounds.

At Large: An animal shall be deemed to be at large when it is off the owner's property and not under the control of the owner or a responsible Person, either by leash, cord, or chain.

Authorized Emergency Vehicle: Vehicles of the Fire Department and Police Department and such ambulances designated or authorized by the Chief of Police.

Bar: An area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a Restaurant may contain a bar, the term "bar" shall not include the Restaurant dining area.

Business: Any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

Block: A unit of land bounded by Streets or by a combination of Streets and public land, waterways, or any other barrier to the continuity of development.

Child Care Facility: Any licensed nursery, day care center, preschool, or other facility that provides care for children.

Crosswalk: That portion of a Roadway ordinarily included within the prolongation or connection of the lateral lines of Sidewalks at Intersections. Any portion of a Roadway distinctly indicated for Pedestrian crossing by lines or other markings on the surface.

Derelict Vehicle: A Motor Vehicle:

- a) Whose certificate of registration has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the North Carolina Department of Transportation; or
- b) Whose major parts have been removed so as to render the Vehicle inoperable and incapable of passing inspection as required under existing standards; or
- c) Whose manufacturer's serial plates, Vehicle identification numbers, license plates and any other means of identification have been removed so as to nullify efforts to locate or identify the registered legal owner; or
- d) Whose registered and legal owner of record disclaims ownership or releases his/her rights thereto; or
- e) Which is more than 12 years old and does not bear current license as required by the Department of Motor Vehicles.

EXCEPTION: A Vehicle that is on private property and is being stored, repaired or restored by the owner will not be considered a Derelict Vehicle. This exception holds true even if the Vehicle is not registered, is partially stripped and will not pass inspection, or is more than 12 years old. If the Vehicle is on private property and is claimed by the owner, it is not Abandoned or Derelict.

Driver: Every Person who drives or is in actual physical control of a Vehicle.

Employee: Any Person who is employed by any Employer in the consideration for direct or indirect monetary wages or profit, and any Person who volunteers his or her services for a non-profit entity.

Employer: Any Person or Entity, including a municipal corporation or non-profit entity, who employs the services of one or more individual Persons.

Enclosed Area: All space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

Entity: Any firm, partnership, corporation, limited liability company or any other type of business association.

Fiscal Year: The period beginning with the 1st day of July and ending with the following 30th day of June.

Health Care Facility: Any public or private facility principally engaged in providing services for health maintenance and the treatment of mental and physical conditions, including but not limited to laboratories, hospitals and doctors' offices.

Intersection: The area where two or more Roadways cross or join at grade.

Junked Motor Vehicle: An Abandoned Motor Vehicle that also:

- a) is partially dismantled or wrecked; or
- b) cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- c) is more than five (5) years old and appears to be worth less than one hundred dollars (\$100); or
- d) does not display a current license plate.

Motor Vehicle: Every Vehicle which is self-propelled by some kind of motor (e.g. gasoline, diesel, electric).

Officer: A Police Officer of the Town or any other agent of the Town that is authorized by the Board to implement ordinances and procedures of the Town.

Official Traffic Control Devices: All signs, signals, markings, mirrors and devices not inconsistent with this Code of Ordinances placed or erected by authority of the governing body or official having jurisdiction, for the purpose of regulating, warning, or guiding Traffic.

Park: To bring a Vehicle, whether occupied or not, to a stop and keep Standing other than temporarily for the purpose of and while actually engaged in loading or unloading.

Pedestrian: Any Person afoot.

Person: Every natural Person.

Place of Employment: Any Enclosed Area under the control of a public or private employer which Employees normally frequent during the course of employment, including but not limited to work areas, Employee lounges and restrooms, conference and class rooms, Employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a Child Care or Health Care Facility.

Police Officer: Every Officer of the municipal police department or any Officer authorized to direct or regulate Traffic or to make arrests for violation of traffic regulations.

Private Road or Driveway: Every road or driveway not open to the use of the public for purposes of vehicular travel.

Public Place: Any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, Restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."

Public Walkway: A cleared way or path for pedestrians located on public grounds that may or may not be paved or otherwise improved. A Sidewalk is a type of Public Walkway.

Recyclable Materials: Newspaper, magazine, cardboard, telephone books, loose paper, glass containers, designated plastic containers, steel or aluminum cans and scraps, reusable clothing.

Refuse: All discarded household and yard items, such as appliances, furniture, equipment, leaves, clippings, branches, etc.

Residential Yard Waste: Bagged leaves and brush and trimmings which measure shorter than four feet (4') in length and less than six inches (6") in diameter. Lawn grass clippings are excluded from pick-up.

Residential White Goods/Bulk Goods: Appliances, stoves, refrigerators, water heaters, furniture, carpet, window air conditioners, items other than household garbage, recyclables, building materials, hazardous waste, tires.

Restaurant: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria and any other eating establishment which gives or offers food for sale to the public, guests, or Employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. The term "Restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "Bar" as defined above.

Right-of-way: The privilege of the immediate use of the Roadway.

Roadway: That portion of a Street that is improved, designed, or ordinarily used for vehicular travel.

Safety Zone: The area or space officially set apart within a Roadway for the exclusive use of Pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a Safety Zone.

Service Line: Any indoor line at which one (1) or more Persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Sidewalk: A paved, surfaced or leveled area, paralleling and usually separated from the Street, intended for use as a Pedestrian walkway.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.

Smoking Materials: All items, paraphernalia, and equipment associated with the act of Smoking, including but not limited to: cigars, cigarettes, pipes, pipe tobacco, weeds, plants (whether lighted or unlighted); matches, lighters, lighter fluid, butane-type lighter fillers; and all containers, wrappers, and packaging associated therewith.

Solid Waste (garbage): Unwanted or discarded animal and vegetable matter, small cans, glassware, crockery, paper and plastic products, and other small containers in which animal and vegetable matter has been left or stored.

e) Sports Arena: Sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Standing: Any stopping of a Vehicle, whether occupied or not.

Stop or Stopping: When prohibited, means any stopping of a Vehicle except when necessary to avoid conflict with other Traffic or in compliance with the direction of a Police Officer or traffic control sign or signal.

Street or Highway: The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.

Traffic: Pedestrians, ridden animals, Vehicles and other conveyances either singly or together while using any Street for purposes of travel.

Vehicle: Every device in, upon, or by which any Person or property is or may be transported or drawn upon a Street, except devices moved by human power or used exclusively upon stationary rails or tracks; provided, that for the purpose of this Ordinance, a bicycle or a ridden animal shall be deemed a Vehicle.

Section 3. Official Time Standard. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in the Town.

ARTICLE II: LEGISLATIVE

Section 1. Regular Meetings. The regular meetings of the Mayor and Board of the Town shall be held on the second Thursday of each month, at 7:30 p.m. in the Allen Building, unless otherwise designated by the Board. The regular meeting begins at the public hearing starting time in those months when a public hearing is scheduled before the regular monthly meeting, as announced during the prior month's meeting.

Section 2. Special Meetings. Special meetings of the Board may be held upon the call of the Mayor or upon written request of any two members of the Board. Notice of the time and purposes of said special meetings shall be posted, and due notice shall be given to the Mayor and Board of the time and purposes of such meetings.

Section 3. Quorum. A majority of the members of the Board shall constitute a quorum and no official business of the Town shall be transacted by the Board unless a quorum is present.

Section 4. Minutes. It shall be the duty of the Town Clerk to be present at all meetings of said Town Board and to keep in a book provided for that purpose a record of all the proceedings of the Board.

Section 5. Mayor to Preside. The Mayor shall preside at all meetings of the Board and in his/her absence the Mayor Pro Tempore shall preside.

Section 6. Mayor Not to Vote. The Mayor shall not vote on any question before the Board except in the case of a tie vote deadlocking a decision of the Board.

Section 7. Committees. The Mayor and Commissioners may create such committees of the Board for special purposes as they deem best.

ARTICLE III: ORDINANCES

Section 1. Effective Date. All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.

Section 2. Ordinance Confined to One Subject. All ordinances shall be confined to one subject except appropriation ordinances which shall be confined to the subject of appropriation only.

Section 3. Official Copy. A true copy of an ordinance, which has been duly enacted by the Board, signed by the Mayor, and attested to by the Town Clerk shall be known as an official copy of any ordinance for the Town. The official copy of all ordinances shall be kept at the Town office. All ordinances or a true copy thereof shall be inserted in this Code in the proper chapter.

Section 4. Ordinances Appropriating Money. No appropriation ordinance or an ordinance to alter or repeal an appropriation ordinance shall be enacted at any meeting other than a regular meeting except by a unanimous vote of the entire Board.

Section 5. Public Education. The Board shall engage in a continuing program to explain and clarify the purposes and requirements of the ordinances contained in this Code to citizens affected by it, and to guide owners, operators and managers in their compliance with them. Such program may include publication of brochures explaining the provisions of the ordinances.

Section 6. Severability. Should any Section or provision of this Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Code of General Ordinances as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE IV -- OFFICERS AND EMPLOYEES

Section 1. Office of Mayor. It shall be the duty of the Mayor to cause all ordinances of the Town to be enforced and to attend and preside over all meetings of the Board. It shall further be the duty of the Mayor to, within thirty days after the close of each year, require a report to the Board from the various departments of the Town government for the previous year and recommend such adjustments as he/she may see fit. The Mayor shall perform such other duties as the Board may from time to time require. The Mayor shall be the chief executive Officer of the Town.

Section 2. Offices of the Town Administrator and Finance Officer. The Town Administrator and Finance Officer shall be appointed by the Board at the first meeting in each year.

- a) It shall be the duty of the Finance Officer, under supervision of the Town Administrator, to keep true, accurate and just books of accounts of the dealings and transactions of the Town. These books shall show at all times the true condition of the Town, its resources and liabilities and the disposition and use of the moneys coming under the control of the Town.
- b) The Town Administrator shall keep or cause to be kept in a safe place all moneys, records, and accounts.
- c) The Finance Officer shall disburse funds for the various purposes of the Town only when an appropriation for such purpose has been made in the annual budget and the disbursement is authorized by the Town Administrator.
- d) The Town Administrator shall perform such other duties as the Board may from time to time require.

Section 3. Office of the Town Clerk. The Town Clerk shall attend all meetings of the Board and shall regularly and fairly record all their proceedings. He/she shall also keep a bound book of the Code of Ordinances, in which he/she shall fairly and correctly transcribe all ordinances which are enacted by the Board.

Section 4. Office of the Zoning Official. The Zoning Official has the responsibilities of administering and enforcing the Town's Zoning Ordinance, under the supervision of the Board. The Zoning Official shall be appointed by the Board at the first meeting in each year.

Section 5. Director of Public Works. The Director of Public Works shall direct and coordinate the functions, activities and personnel of the Public Works Section and perform related work as required, under the supervision of the Town Administrator. The Town's public works operations include street maintenance and repair, street sign installation and maintenance, construction and repair of water distribution system, water wells, landscaping and installation and repair of storm drainage facilities. The Director of Public Works shall be appointed by the Board at the first meeting in each year.

Section 6. Other Officers and Employees. Such other Officers and Employees that are deemed necessary shall be appointed by the Board.

Section 7. Employees' Bonds. The Town Administrator and other Officers or Employees required by the Board shall, before entering upon their duties, post bond in amounts specified by the Board. All bond premiums shall be paid from Town funds. Provided that, when two offices are combined, such as Town Administrator and Tax Collector, only one bond shall be required.

ARTICLE V: FINANCES AND PURCHASING

Section 1. Disbursement of Funds. No money shall be disbursed from the Town treasury except for items that have been provided for in the annual budget, or in the case of an

extreme emergency. All checks shall be signed by the Finance Officer and one Commissioner or Mayor.

Section 2. Purchasing.

- a) Before any order is given for items to be paid by the Town or any purchase made by any Town Employee, a purchasing order must first be obtained from the Town Administrator.
- b) Any Town Employee purchasing goods without a purchase order from the Town Administrator shall be held responsible for the cost of same.