Town of Montreat
Board of Commissioners Meeting – Public Forum
February 8, 2023 – 6:30 p.m.
Town Hall

I. Call to Order

- Welcome
- Moment of Silence

II. Agenda Adoption

III. Public Comments

IV. Adjournment

Town of Montreat
Board of Commissioners
Town Council Meeting
February 8, 2024 – 7:00 p.m.
Town Hall

I. Call to Order

- Pledge of Allegiance
- Moment of Silence

II. Agenda Adoption

III. Mayor's Communications

IV. Consent Agenda

A. Meeting Minutes Adoption

- January 11th Public Forum Meeting Minutes
- January 11th Town Council Meeting Minutes

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

VI. Town Manager's Communications

- Consent Agenda Review
- Other Items

VII. Administrative Reports

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

VIII. Public Comment

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

IX. Old Business

X. New Business

A. Swannanoa Valley Tree Alliance Treasured Tree Program

- **Presenter: Ed Kramer**
- **See Agenda Materials: pages 20-32**
- **Suggested Motion: Move to approve the Town of Montreat joining the Swannanoa Valley Tree Alliance Treasure Tree Program**

B. Flat Creek Crossing Update and Approval of Swannanoa Valley Endowment Fund Grant Application

- **Presenter: Jean Norris**
- **See Agenda Materials: pages 33-40**
- **Suggested Motion: Move to approve Swannanoa Valley Endowment Fund Grant Application**

B. TA-2024-01 – Text Amendment Public Hearing

- **Presenter: Kayla DiCristina (if needed), Applicant (if needed)**
- **See Agenda Materials: pages 41-73**
- **Suggested Motion: Move to open/close Text Amendment Public Hearing**

C. TA-2024-01 – Adoption Ordinance

- **Presenter: Kayla DiCristina (if needed), Applicant (if needed)**
- **See Agenda Materials: pages 74-75**
- **Suggested Motion: Move to adopt/adopt with revisions Ordinance #24-02-0001 for TA-2024-01**

D. Nomination and Appointment of _____ to Board of Adjustment

- **Presenter: Savannah Parrish**
- **See Agenda Materials: page 76**
- **Suggested Motion: Move to nominate and appoint _____ to Board of Adjustment for a term of three years to expire on 1/31/2027**

E. Discussion of Fund Balance Policies

- **Presenter: Savannah Parrish and/or Mayor Pro Tem Mason Blake**
- **See Agenda Materials: pages 77-82**
- **Suggested Motion: No Motion – Discussion Purposes Only**

F. Revisions to Personnel Policy

- **Presenter: Savannah Parrish**
- **See Agenda Materials: pages 83-140**
- **Suggested Motion: Move to approve Resolution 24-02-0001 Adopting Revised Personnel Policy**

G. Town & State Dinner/City Vision – Discussion Only

- **https://cityvision2024.com/**
- **https://www.nclm.org/events-training/event-details?ID=609**

XI. Public Comment

Public comments will be heard during this period for any and all items.

XII. Commissioner Communications

XIII. Dates to Remember

- **Tree Board, Tuesday February 27th at 9:30 a.m. in Town Hall with Zoom options**
- **Board of Adjustment Meeting, February 22nd at 5:00 p.m. in Town Hall with Zoom options**
- **Landcare, Wednesday March 6th at 9:00 a.m. in Town Hall with Zoom options**
- **March Town Council Meeting, Thursday March 14th at 7:00 p.m. Public Forum to begin at 6:30 p.m.**
- **Tree Board, Tuesday March 26th at 9:30 a.m. in Town Hall with Zoom options**
- **Board of Adjustment, Thursday March 28th at 5:00 p.m. in Town Hall with Zoom options**

XIV. Adjournment

Town of Montreat
Board of Commissioners
Public Forum Meeting Minutes
January 11, 2024 – 6:30 p.m.
Town Hall

Board members present: Mayor Tim Helms
Commissioner Jane Alexander
Commissioner Kitty Fouche
Commissioner Tom Widmer
Mayor Pro Tem Mason Blake
Commissioner Grant Dasher

Board members absent: None

Town staff present: Savannah Parrish, Town Manager
Angie Murphy, Town Clerk

Approximately ten members of the public were present. Mayor Tim Helms called the meeting to order at 6:30 p.m., and led the group in a moment of silence.

Agenda Approval

Commissioner Jane Alexander moved to adopt the agenda as presented. Commissioner Grant Dasher seconded and the motion carried 5/0.

Public Forum

Mrs. Letta Jean Taylor of 386 Oklahoma Road advised that in Buncombe County a single worker, living in a one-bedroom apartment, would need $22.10 as an hourly wage to live in 2024. Mrs. Taylor just saw an ad for an open police officer position with the Town of Black Mountain and she stated that the Town of Montreat cannot compete with the offered salary. Mrs. Taylor also advised that the 5-person Public Works Crew needs more money or an additional staff member to keep up with all their work. Mrs. Taylor advised that Montreat's infrastructure is aging. Mrs. Taylor expressed her gratitude that Oklahoma Road had been paved in 2023 but she mentioned that there are many other roads in Montreat that need resurfacing (Arkansas Road, Assembly Drive, Lookout Road). Mrs. Taylor also mentioned that there was a water break, for the third time, on Lookout Road recently. Mrs. Taylor stated that the 35% Fund Balance may seem like an easy place to get extra money, but it is not a great idea. Mrs. Taylor advised that when she was on Council, they received several letters from the Local Government Commission (LGC) about their then 8% Fund Balance. The LGC indicated that the 8% was too low since Montreat's budget is low. The LGS felt that if an emergency were to occur that Montreat would not have enough money to effectively take care of it. Mrs. Taylor cautioned the Council in taking too much money away from the Fund

Balance. Mrs. Taylor also advised that another hard budget year is coming up, but she knows Council will look at every possibility before making decisions.

Adjournment

Commissioner Tom Widmer moved to adjourn the meeting. Mayor Pro Tem Mason Blake seconded and the motion carried 5/0. The meeting was adjourned at 6:50 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

Town of Montreat
Board of Commissioners
Meeting Minutes
January 11, 2024 – 7:00 p.m.
Town Hall

Board members present:	Mayor Tim Helms Mayor Pro Tem Mason Blake Commissioner Kitty Fouche Commissioner Grant Dasher Commissioner Tom Widmer Commissioner Jane Alexander
Board members absent:	None
Town staff present:	Savannah Parrish, Town Manager Angie Murphy, Town Clerk Virginia Johnson, Patrol Officer Barry Creasman, Public Works Director Rachel Eddings, Finance Officer

Approximately twelve members of the public were present at Town Hall and several more were watching via Zoom. Mayor Tim Helms called the meeting to order at 7:00 p.m., and led the group in the pledge of allegiance and a moment of silence.

Agenda Approval

Commissioner Kitty Fouche moved to approve the agenda as presented. Commissioner Jane Alexander seconded and the motion carried 5/0.

Mayor's Communications

Mayor Tim Helms wished everyone a great 2024!

Meeting Minutes Adoption

- November Special Meeting Minutes – Policy Workshop
- December 14th Public Forum Meeting Minutes
- December 14th Town Council Meeting Minutes

Town Manager's Communications

Town Manager Savannah Parrish announced that the Town of Montreat recently purchased a new police vehicle that was in the current year budget. It is a Dodge Durango that is in the process of being up-fitted and hopefully everyone will see it out on the roads of Montreat soon!

Administrative Reports

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

Public Comment

There was no public comment at this time.

Old Business

There was no Old Business to discuss.

New Business

A. TA-2022-01 – Adoption Ordinance Amending Town of Montreat Subdivision Ordinance: Ms. Parrish advised Council that they approved a text amendment at the December 8, 2022 Town Council Meeting for 160D compliance. Ms. Parrish advised that there was nothing new in the ordinance this evening but that Town Staff needed it in writing which was not originally taken care of at the prior meeting. This procedure will retroactively put an ordinance into place for the text amendment. The UNC School of Government has verified that this is the correct action to take to move forward with the ordinance. Commissioner Tom Widmer moved to adopt with revisions the three Ordinances #24-01-0001 for TA-2022-01, #24-01-0002 for TA-2022-02, and #24-01-0003 for TA-2023-01. Commissioner Kitty Fouche seconded and the motion carried 5/0.

B. TA-2022-02 – Adoption Ordinance Amending Town of Montreat Wireless Communications Ordinance: Please see information under item A.

C. TA-2023-01 – Adoption Ordinance Amending Town of Montreat Zoning Ordinance: Please see information under item A.

D. Resolution #24-01-0001 Authorizing Private Sale of Surplus Personal Property: Ms. Parrish advised this was a Resolution authorizing private sale of surplus personal property. The surplus property is 2010 Ford Escape that the Montreat Police Department is no longer using. Montreat College has

offered to purchase it in the amount of $4,250. The trade-in value is between $3,500 and $4,200. Once the Resolution has passed there will be a ten day waiting period before Town Staff can sell the vehicle. Mayor Pro Tem Mason Blake moved to approve Resolution #24-01-0001 authorizing private sale of surplus personal property. Commissioner Grant Dasher seconded and the motion carried 5/0.

E. Nomination of Planning & Zoning Commission Seat – Regular Member: Ms. Parrish advised that there was one open seat and two interested parties in filling the open seat. Mrs. Julie Schell, who currently serves on Planning & Zoning Commission, has expressed interest in being reappointed and Mr. Wayne Hatcher is also interested in the appointment. Commissioner Kitty Fouche mentioned that she spoke to Mr. Hatcher earlier today and he had agreed to wait till next year, or sooner, to be appointed when several seats come open on Planning & Zoning Commission. Commissioner Jane Alexander moved to nominate Julie Schell to take the soon to be expired Regular Planning & Zoning Commission Seat. Commissioner Kitty Fouche seconded and the motion carried 5/0.

F. Appointment of (fill in the blank) to serve as a Regular Member on the Planning & Zoning Commission for a term of three years that will expire on January 31, 2027: Commissioner Kitty Fouche moved to appoint Julie Schell to serve as a Regular Member on the Planning & Zoning Commission for a term of three years that will expire on January 31, 2027. Commissioner Tom Widmer seconded and the motion carried 5/0.

Public Comment

There was no public comment at this time.

Commissioner Communications

Commissioner Kitty Fouche announced that the Presbyterian Heritage Center has a new, very qualified director, Anne Chesky, and she encouraged everyone to go by and meet her!

Commissioner Tom Widmer thanked Town Manager Savannah Parrish for her diligence in making sure that all policies, ordinances and other important matters are being updated and addressed.

Ms. Parrish advised that AV Specialist Josh Greene has returned to the Town of Montreat to assist with Public Forums, Town Council Meetings and Board of Adjustment Meetings.

Dates to Remember

- Town Offices Closed MLK Jr. Day, Monday January 15th. Sanitation services will resume on Tuesday, January 16th.
- Planning & Zoning Commission, Regular Meeting, Thursday January 18th at 10:30 a.m. in Town Hall with Zoom options
- Tree Board, Tuesday January 23rd at 9:30 a.m. in Town Hall with Zoom options
- Open Space Conservation Committee, Wynne-Lithia Springs Subcommittee Special Meeting, Wednesday January 24th at 2:00 p.m.
- Board of Adjustment Meeting, January 25th at 5:00 p.m. in Town Hall with Zoom options
- Landcare, Wednesday February 7th at 9:00 a.m. in Town Hall with Zoom Options
- February Town Council Meeting, Thursday February 8th at 7:00 p.m. in Town Hall with Zoom Options. Public Forum to begin at 6:30 p.m.

Closed Session

Mayor Pro Tem Mason Blake moved to enter into Closed Session into accordance with NCGS 143-318.11 (6) for discussion of a personnel matter. Commissioner Jane Alexander seconded and the motion carried 5/0.

Upon returning to Open Session there was no new business to attend too.

Adjournment

Commissioner Tom Widmer moved to adjourn the meeting. Mayor Pro Tem Mason Blake seconded and the motion carried 5/0. The meeting was adjourned at 7:39 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

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

ADMINISTRATIVE REPORTS:
ADMINISTRATION

Town Administration report for the month of January 2024

Monthly Statistics	2023	2024
Public Meetings	8	8
Inter-Organizational /Intergovernmental Meetings	1	0
Agendas Prepared	7	6
Minutes Transcribed	7	4
Resolutions Drafted	0	2
Public Records Requests Processed	3	4
Water Bills Processed	675	688
Leak Adjustments	2	4
New Water Accounts Established	2	0
Purchase Orders	74	74
Professional Development Hours	0	75+
Sunshine List Messages		11
Website Posts	14	11
Social Media Posts	0	11
Code Red Alerts	0	0
Workers Compensation Claims	0	0

Upcoming Events and Schedule Changes

Comments
N/A

Staff Communications
0

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ADMINISTRATIVE REPORTS:
BUILDINGS AND INSPECTIONS

Buildings and Inspections report for the month of January 2024

Monthly Statistics

	2023	2024
Building Permits Issued	4	6
Pending Building Permits	1	0
Building Inspections Performed	23	33
Stop Work Orders Issued	0	0
Defective Building Posted	0	0
Denied Building Permits	0	0
Fire Inspections Performed	0	0
Fire Re-Inspections Performed	0	0
Fire Permits Issued	0	0

Comments

Staff Communications

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ADMINISTRATIVE REPORTS:
STREETS

Streets Department report for the month of January 2024

Monthly Statistics	2023	2024
Miles of Road Maintained	17.12	17.12
Miles of New Road Constructed	0	0
Public Trees Removed	0	3
Sand Applied to Roads (tons)	0	0
Ice Melt Applied to Roads (pounds)	0	2500#
Monthly Fuel Costs	364.23	$434.52
Contracted Employee Staff Hours	17.5	96
Road Closures	0	0

Comments

0

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ADMINISTRATIVE REPORTS:
POLICE DEPARTMENT

Police Department report for the month of January 2024

Monthly Statistics	2023	2024
Mileage	2,654	2,228
Dispatched Calls	17	17
Officer-Initiated Calls	633	588
Fire Assistance Calls	0	4
EMS Assistance Calls	1	2
Motorist/Other Assistance Calls	11	13
Traffic Stops	28	9
Parking Issues	5	2
Burglar Alarm Responses	0	0
Fire Alarm Responses	0	4
Residential/Building Checks	521	445
Ordinance Violations	5	3
Law Enforcement Agency Assistance Calls	9	3
Animal Control Calls	3	5
Larcenies	0	0
Breaking & Entering Calls	1	0
Suspicious Person Investigations	1	1
Suspicious Vehicle Investigations	3	1
Disturbance Calls	2	2
Accident Responses	1	1
Auxiliary Hours Worked (Regular)	16	0
Auxiliary Hours Worked (Addittional)	12	168
Truck Turns at Gate	5	3
MPD Fuel Cost	$ -	$0.00
Professional Development Hours	16	0
Town Service	637	470
MRA Service	222	186
College Service	6	13

Comments

A reminder, our non-emergency number has changed. You can reach the MPD Officer on duty through Buncombe County Dispatch. 828-250-6670.

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ADMINISTRATIVE REPORTS:
WATER AND PUBLIC WORKS

Water and Public Works report for the month of January 2024

Monthly Statistics	2023	2024
Calls for Service	43	64
Water Leaks Repaired	2	5
New Water Lines Installed	0	0
Water Meters Read	674	679
Water Meter Replacements	56	5
Gallons of Water Produced	2853222	3,883,193
Monthly Fuel Cost	465.85	$ 384.62
Hours Pumped (11 wells combined)	1574	1,964

Comments

We would like to remind everyone that as the winter temps drop to please make sure that if your homes are not winterized to keep the heat on or have someone turn a few faucets on and let them drip to prevent any freezing of pipes.

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www.townofmontreat.org

ADMINISTRATIVE REPORTS:
SANITATION

Sanitation Department report for the month of January 2024

Monthly Statistics	2023	2024
Tons of Curbside Trash Collected	21.82	15.31
Pay-As-You-Throw Trash Bags Collected	N/A	N/A
Tons of Curbside Recycling Collected	3.84	4.71
Pay-As-You-Throw Recycling Bags Collected	N/A	N/A
Cardboard Recycling Collected	2,06	N/A
Unique Curbside Sanitation Stops	2285	2,100
Bagged Leaf Pickup	184	55.00
Brush Pickup (cubic yards)	4 Loads	5 Loads
Hauling Fees	3284.6	$4,444.60
Tipping Fees	1272.98	$0.00
Dumpster Rental Fees	454.26	$460.26
Sanitation Fuel	224.1	$ 196.69

Comments:

We had 2 notifications for trash related issues and no citations were issued. We did 2 Bulk pickups.

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ADMINISTRATIVE REPORTS:
ZONING ADMINISTRATION

Zonning Administration report for the month of Jan-24 2024

Monthly Statistics	2023	2024
Approved Zoning Permits	1	0
Denied Zoning Permits	0	0
Pending Zoning Permits	0	0
Variance/Interpretation Granted	1	0
Conditional Use Permits Granted	0	0
Permit Extensions Granted	0	0
Sign Permits Issued	0	0
Notices of Violation	0	0

Comments
0

January Permits Issued

Permit Number	Date	Name	Property Address	Permit Type	Project	Zoning Approval	Cost	PIN	CONTRACTORS	Fee Amount	Fee Paid	HRF
5976	1/5/2024	Lucy Dusthimer	439 WV Terrace	mech/elect/plum	1.5 ton hpco	no			Gentry Service Group	$ 100.00	x	
5977	1/5/2024	James Apple	150 Overbrook Rd	building	resi remodel-interior	no	$ 65,000.00		Rockin R Maint & Constr	$1,060.00	x	x
5978	1/12/2024	Jon Overcash	219 Assembly Dr	building	resi remodel-interior	no	$ 175,000.00		From the Ground Up Builders	$1,720.00	x	x
5979	1/16/2024	Al Hardie	136 Virginia Rd	mech/elect/plum	elect service repair	no			Tony Nix Electric	$ 100.00	X	
5980	1/17/2024	Bes-Lu LLC	223 Tennessee Rd	mech/elect/plum	heat pump change out	no			Dan Wall Inc	$ 100.00	X	
5981	1/23/2024	Arnold Moore	318 Chapman Rd	mech/elect/plum	gas line-replacement	no			Blossman Gas	$ 100.00	x	
5982	1/26/2024	Daniel Stewart	309 Georgia Terrace	mech/elect/plum	3 ton upco	no			Gentry Service Group	$ 100.00	x	
5983	1/31/2024	Charlotte Sebesta	353 Missouri Road	demolition	total demolition	no			Wheeler Grading	$ 100.00		

SURED TREES OF THE SWANNANOA VALLEY

0]
14 Blue Ridge Circle*
0]
900]
70]
]
NNANOA)
1780]
OW TERRACE)
JRSE ACCESS)
iver Bi[illegible] [circa 1940]
Pine Drive*
1890]
70]
]
ulip Poplar [circa 1945]
hite Oak [circa 1820]
ite Oak [circa 1800]
'AY (EMILY'S WALK)*
90]
NNANOA)
1950]

22 208 VIEW ST — Dawn Redwood [circa 1970]
23 103 WEST ST — Pin Oak [circa 1900]

RED ROCKER INN: 136-137 N. Dougherty Street
24 White Oak [circa 1890]
25 Eastern Hemlock Grove [before 1960]
26 14 RUSTLING PINE TRAIL
Eastern Hemlock [circa 1950]
27 110 CHURCH ST — White Oak [circa 1820]
28 401 MONTREAT RD — White Oak [circa 1840]

BLACK MOUNTAIN HOME: 80 Lake Eden Road*
29 Tulip Poplar [circa 1840]
30 Silver Maple [circa 1900]
31 Southern Red Oak [circa 1820]

CAMP ROCKMONT: 375 Lake Eden Road*
32 Tulip Poplar 1 [circa 1900]
33 Tulip Poplar 2 [circa 1900]
34 American Sycamore [circa 1915]
35 Yellow Buckeye [circa 1870]
36 American Beech [circa 1870]
37 Eastern Hemlock [circa 1900]
38 553 BLUE RIDGE RD — White Oak [circa 1800]
39 1186 OLD HIGHWAY 70 (BLACK MOUNTAIN INN) — White Oak [circa 1790]
42 71 TERRY ESTATE DR — White Oak [circa 1800]
43 641 BEE TREE RD (IN SWANNANOA) (not shown on map) — Northern Catalpa [circa 1900]
44 216 WHITSON AVE — American Sycamore [circa 1770]
45 201 TABERNACLE RD — Southern Red Oak [circa 1840]
47 47 WALKER TOWN ROAD (not shown on map) — White Oak [circa 1700]
48 144 LAKE EDEN RD — American Beech [circa 1820]
49 GOLF COURSE/LAUREL CIRCLE DR — Southern Red Oak [circa 1800]
50 201 E STATE STREET (BLACK MOUNTAIN BISTRO) — White Oak [circa 1890]

For specific locations to each registered tree, reference the listed street address (or see reverse side for instructions).

(Trees are numbered by their nomination order.)

Read about each tree's history, story and coordinates online at: www.SVTreeAlliance.com

*Listings noted that have additional location instructions on reverse side.

TREES IN SWANNANOA

Some of the Treasured Trees in the Greater Swannanoa Valley area are not shown on the map, but can be found by the listed street address.

[For specific tree locations, see reverse side] **Black Mountain Veterans Park** encompasses 27.2 acres for users to play, walk, fish, gather, exercise and relax. The park features walking trails, picnic tables, ball fields and disc golf course.

Treasured Trees can be viewed only during months when summer camps are not in session. [For viewing instructions and specific tree locations, see reverse side]

NOTE: Map is not drawn to scale. Roads shown for general location and navigation to trees only.

BLACK MOUNTAIN SWANNANOA CHAMBER OF COMMERCE
201 East State St. • 828-669-2300
Visit us today or go online for area information:
www.ExploreBlackMountain.com

Walk the "DOWNTOWN LOOP" to see 11 of our registered trees! [Approximately 2.5 mile loop, 45-60 minute walk]

BLUE RIDGE ASSEMBLY
Trees on the YMCA Blue Ridge Assembly Property can only be viewed during organized Treasured Tree tours. Contact the SV Museum for information on the next Treasured Tree Tour.

Visit the SV Museum website to view additional trees that have been nominated.

Lake Eden · Montreat Community · Black Mountain Golf Club · Lake Tomahawk Community Center, Park, Trail, & Pool · Historic Downtown · Blk Mtn Primary · Flat Creek Greenway · Riverside Walk · Givens Highland Farms · Black Mountain Veteran's Park (Recreation Areas, Ball Parks, Hiking Trails, Disc Golf) · Village of Cheshire · Asheville · Old Fort · (Towards Ridgecrest) · (Towards Christmount) · (Towards Lake Lure) · (to Blue Ridge Assembly)

Map Key

Northern Red Oak · Pin Oak · Shingle Oak · Post Oak · Chestnut Oak · Southern Red Oak · White Oak · Tulip Poplar · American Sycamore · Silver Maple · Common Persimmon · Northern Catalpa · River Birch · Yellow Buckeye · White Pine · Eastern Hemlock · Dawn Redwood · American Beech · Pignut Hickory

Chamber of Commerce · Parks and Greenways · Dog Park · Library · Public Golf · Car Charge · Police & Fire · Town Hall · School · Downtown · Swannanoa · Walking Loop · Public Restrooms · Parking

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Packet Page 20*

. TREE LOCATIONS

tions" of Treasured Trees shown
visiting these, you will need to
napped location to find them on
where they stand...

r computer, open Google Maps.
ıe top, type your coordinates.
up at your coordinates. Then
ctions to the pin/location.

erty when viewing Treasured Trees.
ublic roads or greenways. For those
please follow the instructions below:

ROCKMONT

ed only during months when summer
isiting from August 15th - May 15th
office ahead of time and leave a
ı of your visit to view the trees.
office: (828) 686-3885.

- 1900] 35.631272, -82.364200
- 1900] 35.630906, -82.363931
- ırca 1815] 35.628549, -82.363294
- ca 1870] 35.627694, -82.362500
- rca 1870] 35.627947, -82.362854
- ca 1920] 35.628911, -82.364582

RANS PARK

ıd open daily from 7am - 10pm

- 1945] 35.606294, -82.334550
- rca 1890] 35.606246, -82.334496
- ca 1870] 35.605160, -82.335373
- 1850] 35.605365, -82.335735
- ı 1850] 35.605169, -82.335605

GREENWAY (Emily's Walk)

accessible daily from 7am - 10pm

- ca 1850] 35.622502, -82.317829

OUR PURPOSE

- Bring public awareness to these valuable and irreplaceable trees
- Encourage stewardship of our urban forest
- Protect trees from indiscriminate removal or irreparable damage during development
- Raise awareness of the diversity, sensitivity and importance of the tree canopy

Please respect private property when viewing Treasured Trees.

Most can be viewed from public roads or greenways. For those without public road access, please follow the instructions below:

BLUE RIDGE ASSEMBLY

Trees on the YMCA Blue Ridge Assembly Property can only be viewed during organized Treasured Tree tours. Contact the SV Museum for information on the next Treasured Tree Tour.

THE BLACK MOUNTAIN HOME FOR CHILDREN

Viewing of Treasured Trees on this private property must be done as part of an organized Treasured Tree tour with permission from the organization although some of the Treasured Trees can be viewed anytime from Lake Eden Road.



Treasured Trees Map provided to you by these Sponsors:

Asheville GreenWorks Buncombe County · SVM · Black Mountain Recreation & Parks

Read more on our website:

Funds for the printing of these brochures generously donated by Black Mountain Savings Bank, with graphic design services contributed by ThreeSheets:Design & photos provided by SVTA member, Candace Freeland.

NOMINATION CRITERIA

Trees can be nominated as Specimen or Historic

As SPECIMEN:
Tree of distinctive size, age, beauty or significant value

As HISTORIC:
Tree has association with a historic structure, person or event

- Trees must be structurally sound and have full potential to reach mature size and form
- Trees must be visible from publicly accessible locations
- Treasured Trees may be located on either public or private property within the Swannanoa Valley. Trees on private property must be nominated with written consent of the property owner.
- Species confirmation, measurement, and age estimations will be made by the SVTA after a nomination is made and permission is given by owner.



TREASURED TREE AWARDS

- Owner receives recognition with a certificate
- Each Tree receives a plaque to identify species and estimated age
- Expert consultation by a certified arborist is available to Treasured Tree owners

NOMINATE A TREE

To nominate a tree, please complete the online form available at:

www.SVTreeAlliance.com

or send the following information to the address or email below:

- Tree Owner Name, Address, Phone & Email
- Nominator's name & contact info (if different from above)
- Species of tree (if known)
- Location on property & photograph(s) of tree
- Explanation of why the tree should be considered a Treasured Tree, including historical info about the tree or surrounding property
- Let us know if we can include your tree on the Treasured Tree map

Mail nomination submissions to:

The Swannanoa Valley Museum
P.O. Box 306, Black Mountain NC 28711

or email to info@SVTreeAlliance.com

Recognize, Preserve & Protect our Living Heritage

SWANNANOA VALLEY TREE ALLIANCE

TREASURED TREE Map

www.SVTreeAlliance.com

SWANNANOA VALLEY
TREE ALLIANCE



SVTA: Protecting the Swannanoa Valley Community Forest

"Got Shade?"

SWANNANOA VALLEY TREE ALLIANCE



TREASURED TREE SPRING WALKING TOUR

EARTH DAY: Saturday, April 22nd

10am - 12pm: Downtown Black Mountain

Register to attend NOW!

WHO WE ARE

THE SWANNANOA VALLEY TREE ALLIANCE

SWANNANOA VALLEY TREE ALLIANCE



The Swannanoa Valley Tree Alliance is an alliance between Asheville GreenWorks, Swannanoa Valley Museum & History Center, Black Mountain Parks & Greenways Foundation, and other stakeholders of our community forest canopy. We believe that the trees of the Swannanoa Valley might be one of the most important characteristics that defines local beauty and small town charm. Our trees – along municipal streets, in parks and natural areas, and in the front and back yards of homes – are our Community Forest.

PROTECTING THE COMMUNITY FOREST

SWANNANOA VALLEY TREE ALLIANCE



- We facilitate nominations of the Treasured Trees of the Valley through the Asheville GreenWorks Treasured Tree Program.
- We bring public awareness of the trees in the Swannanoa Valley as valuable and irreplaceable and encourage stewardship of our community forest.
- We speak up for the trees when local governments are making decisions that impact our community forest.
- We inspire people to improve the world around them by planting native trees and replacing trees lost to development or disease.

PURPOSE OF THE PROGRAM

SWANNANOA VALLEY TREE ALLIANCE



Trees are the lifelines of our valley, beautifying the view corridor that we share, providing shade and privacy, creating the oxygen we breath and keeping our air cool and clean. Our trees protect soils from erosion and provide habitat and food for birds, pollinators, and other wildlife.

OUR PURPOSE:

- Bring public awareness to these valuable and irreplaceable trees
- Encourage stewardship of our community forest by increasing property owners' awareness of their role in maintaining the forest canopy
- Protect all trees from indiscriminate removal or irreparable damage during development
- Raise awareness of the diversity, sensitivity and importance of the tree canopy

HOW YOU CAN HELP?

SWANNANOA VALLEY TREE ALLIANCE

- Solicit donations to help pay for Treasured Tree plaques & education events
- **Help to process treasured tree nominations, and present/install plaques and certificates**
- Research the history of nominated trees, and help work on our database with pictures, historical information, and locations of each Treasured Tree
- **Are you an arborist? Or do you know one? Arborists are needed to assess the ecological importance, health, estimated age, and DBH of nominated trees**

...OR MAKE A DONATION TODAY!

Donate now to SVTA

...OR DONATIONS CAN BE MADE BY CHECK OR MONEY ORDER:

When donating, please write check to "The Black Mountain Parks & Greenways Foundation", **and note (on Memo line) that the donation is for the Swannanoa Valley Treasured Tree program.**

MAIL DONATIONS TO: Black Mountain Parks and Greenways, Inc. || PO Box 253, Black Mountain, 28711

Plaques are paid for through private individuals, business donations, and the Swannanoa Valley Museum. If you would like to sponsor a tree that you have nominated, you can have your logo on the tree's plaque for $25. Each metal plaque is affixed to the tree trunk with long screws that back out as the tree grows (or placed on a stake in front of the tree if it cannot be affixed to tree).

Nominate a Tree!

Swannanoa Valley Tree Alliance

An alliance between The Swannanoa Valley Museum & History Center, Black Mountain Urban Forestry Commission, Asheville GreenWorks, and other stakeholders of our community forest canopy, encouraging stewardship and greater public awareness of the irreplaceable value of trees.

Nomination Form to honor a favorite tree for Treasured Tree status, recognition and plaque

Tree Owner's Name _____

Tree's Street Address_____

City, State, zip_____

Tree owner's phone_____

Tree owner's e-mail_____

Tree Species (if known)_____

Nominator's Name (If different from owner)_____

Nominator's phone and e-mail

_____

Would you like your tree to be added to the Treasured Tree map on the Museum website?____

Any historical info about the tree and/or property, please add on back.

Mail or deliver submissions to: Swannanoa Valley Museum & History Center
PO Box 306 Black Mountain, NC 28711
for more info, visit: https://www.history.swannanoavalleymuseum.org/treasuredtrees
or contact: info@swannanoavalleymuseum.org

SWANNANOA VALLEY
TREE ALLIANCE

An alliance between the Swannanoa Valley Museum & History Center, Black Mountain Urban Forestry Commission, Asheville GreenWorks, and other stakeholders of our community forest canopy, encouraging stewardship and greater public awareness of the irreplaceable value of trees.

NOMINATION FORM TO HONOR A FAVORITE TREE

for Treasured Tree status, recognition and plaque

Tree Owner's Name _____

Tree's Street Address _____

City, State, Zip _____

Tree owner's phone _____

Tree owner's e-mail _____

Tree Species (if known) _____

Nominator's Name (If different from owner) _____

Nominator's phone and e-mail _____

Would you like your tree to be added to the Treasured Tree map on our website?

Any historical info about the tree and/or property, please explain here (or write on back).

_____

_____

_____

_____

_____

_____

Mail Submissions to:
Swannanoa Valley Museum & History Center
ATTN: SVTA | PO Box 306 Black Mountain, NC 28711

For more info, visit: www.**SVTreeAlliance**.com or contact: info@swannanoavalleymuseum.org

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On Oct 8, 2023, at 10:07 PM, info@svtreealliance.com wrote:

Hi Ed,

The trees we looked at last week are listed below along with some questions/details to figure out regarding tree r
available to do so before the trees loose their leaves? Myself and possibly other members of the group could tak
Tuesday Oct 17th at 3:30 pm might work. I'm also available the afternoon of the 23rd or 24th. You are welcome

Questions-
1) Do we want to try to have all 14 nominated this fall?
2) Can we get permissions from individual property owners and/or MRA for trees on their property?
3) Does the Town of Montreat or Tree board want their logo on plaques?
4) Will we have funds raised by the tree board to pay for these plaques?

Sycamore @ 120 Assembly Drive R (private property and ROW)

Cucumber Magnolia @ Corner of Quillen Lane and Assembly dr. (private property of Ann Vinson)

White Oak @ 141 Assembly Drive L (private property of Elizabeth Lord Husk)

Hemlock @ 145 Assembly Drive L (private property and ROW)

White Oak @ 155 Assembly Drive L (private property and ROW)

Tulip Tree @ corner of Louisiana and Assembly Dr. (private property and ROW)

Sycamore @ Assembly Drive R just past post office (ROW)

Northern Red Oak @ across street from Moore Center in parking lot along Lookout Dr. (MRA)

Red Maple @ across street from Moore Center in parking lot along Lookout Dr. (MRA)

White Oak @ adjacent to Moore Center on Lookout Drive (MRA)

White Oak @ along flat creek in Robert Lake Park in playground area and next to Bill Wilde Youth Center (MRA)

Black Gum @ Right field along Elizabeth Path (MRA)


SWANNANOA VALLEY
TREE ALLIANCE
TREASURED TREE
Tulip Poplar
(Liriodendron tulipifera)
BEGAN GROWING CIRCA 1875
Nomination #56
SPONSORS:
GreenWorks
Black Mountain
SVM
Nominated in
honor of:
BERNARD J.
STEMPEL
1929-2013

Tuesday, January 23,2024

Since it's been awhile that we discussed the Treasured Tree Program I'd like to re-introduce the

SVTA Treasured Tree Program and why I am recommending the Tree Board approve our participation and recommend to the Town Commissioners that the Town of Montreat join the SVTA for the benefit of our residents.

The brochure you all have in front of you gives an excellent description of the SVTA. It explains both the criteria for a tree to be nominated and approved along with an incredible map of all the trees in the program with locations , types and explanations.

The attached list of trees in Montreat have been nominated and approved by the SVTA.

This was done by a walking tour in early October , 2023 with members our tree board and representatives of the SVTA. Additionally pictures have been taken of all these trees with their leaves .

I want to thank Montreat resident Joe Standaert for taking the pictures as a professional courtesy

All Montreat trees will be included on the official SVTA map.

Montreat's participation in this program fulfills one of the Tree Board's main responsibilities of

Tree Education to the residents of the town. The walking map provides an educational tool providing an excellent well defined nature walk for individual enjoyment.

Being part of the SVTA will also open funding opportunities with the county and other non profit nature and environmental organizations.

The cost to the town for participating in the program is ZERO.

Plaques are affixed to the trees as you can see in the attachment which identify the age, type of tree

And other specifics of the tree with a QR code. The plaques are designed to grow with the tree through spring loaded screws. Picture attachment.

In addition this program can serve as a fund raiser for the tree board as many people will want to sponsor the cost of the plaque which is $50 and an additional amount to dedicate the tree. That amount is up to us.

Additionally a Walking tour can be designed along with the town's arborist for a small fee.

There is one issue though that needs to be discussed:

The trees are on the town's right of way, private owners property , MRA and the Colleges properties.

We would need written permission from these entities to affix the plaques .

Flat Creek Crossing Accessible Trail

Black Mountain - Swannanoa Valley Endowment Fund Grant Program

Town of Montreat

Savannah Parrish
P.O. Box 92
192 Mississippi Road
Montreat, NC 28757

jeannorris45@gmail.com
O: 510/332-7550
M: 828 712 8308

Dr. Jean Cady Norris

P.O. Box 92
192 Mississippi Road
Montreat, NC 28757

jeannorris45@gmail.com
O: 510 332 7550
M: 510 332 7550

Application Form

Black Mountain - Swannanoa Valley Endowment Fund Grant Program

Project Name*
Name of Project

Flat Creek Crossing Accessible Trail

Amount Requested*
Amount Requested

$10,000.00

Organization's Mission Statement*
The Town of Montreat serves the public with the help of advisory boards. Montreat Landcare Committee is responsible for preserving, protecting and presenting the natural features of Montreat. A Landcare project team focusing on accessibility initiated the Flat Creek Crossing Accessible Trail project. The Town granted permission for use of the designated parcel just inside Montreat gate with the understanding that no Town funds would be available for construction or future maintenance. The Landcare team has been tasked with raising all necessary funds which will be accomplished through private donations, special events and grants such as this request to the CFWNC. The goal of this project has been stated this way:, “everyone should be able to get to the creek.” Flat Creek Crossing will serve all people, especially that segment of our population living with disabilities that has not enjoyed such access before.

Organizational Operating Budget*
Most recent fiscal year

$2,030,592.00

Tax Exemption Status*
Select one

Public/Government Entity

Application

Use of Grant Funds to Begin*
08/01/2024

Use of Grants Funds to End*

01/01/2025

For the following questions, we recommend typing the answers in a WORD document first so you can edit and check spelling if needed. When you have finished answering the questions in WORD, copy and paste your answers directly in the text boxes below for each question.

Description of Project*

Begin with: ABC organization requests $_____ (grant amount requested) to...(state main purpose of the grant request). What is the community need or issue that will be addressed with support from these grant funds? Briefly explain your plan to address this need or issue and how the requested funds will be used. Describe who will be directly affected by the project, focusing specifically on residents of the Black Mountain - Swannanoa Valley community.

The Town of Montreat requests $10,000.00 to complete Phase 1 of a larger project (Flat Creek Crossing Accessible Trail), an ADA accessible trail to a shallow ford of Flat Creek just before it leaves Montreat into Black Mountain. Thousands of visitors from Black Mountain, Buncombe County and beyond enter Montreat annually to attend conferences, to collect spring water, to relax in the park-like areas, to enjoy the playgrounds, and to hike the Montreat Conference Center trails. Many of our residents and visitors arrive with strollers, or have mobility issues themselves. However, there are currently no ADA accessible paths to Flat Creek or its tributaries. We plan to create an accessible and educational park just inside the Montreat Gate to serve all persons. The full project will include dedicated accessible parking, a covered drop-off zone, a 0.1 mile hard-surface permeable trail to the water (replacing a crumbling concrete roadbed), stormwater controls, continuous handrail with brail, an accessible picnic area, a Native Plant Grotto, and educational signage about protecting the flora and fauna of the region and how to help neuro-diverse persons enjoy the site. The requested funds will be used for preliminary earthwork and stabilization of a steep bank between the parking area and the creek, using heavy equipment that cannot be used after the permeable hard surface trail is constructed. This first phase will bring boulders, planting soil and plants to create safe stone steps to the creekside site of a future accessible picnic area and establish planting zones for a native plants grotto, and stabilize the bank in preparation for the next phases of work on the trail and stormwater control systems. Eager volunteers will do the planting under the direction of the site designer.

Results*

What results do you plan to achieve? How will residents of the Black Mountain - Swannanoa Valley community benefit from this project?

Flat Creek Crossing when completed will allow access to the natural beauty of Flat Creek, especially for those with disabilities, mobility challenges, and issues of neurodiversity. For the one in five individuals who live with some form of disability and their companions, this trail will provide equitable access, including them in this safe, enjoyable, educational and beautiful place. Accomplishing Phase 1 will reassure and encourage the community eagerly awaiting project completion, and the volunteers working to raise the remaining needed funds. Thousands of people come to Montreat from Black Mountain, Buncombe County and beyond to hike the trails, attend conferences, enroll in Montreat College, and enjoy the playgrounds, parks, and Lake Susan. The FCCAT site proximity to other trails and the Town of Black Mountain, and its visibility just inside the Montreat Gate, will invite use. It will be a destination for families and groups who want to be in nature with their folks with special needs. Highlighting nature education, habitat protection and stormwater management will also have a positive impact on all who visit Flat Creek Crossing. The site will continue to provide applied learning opportunities for college students in species identification and a place for outdoor education for students of all ages. Signage will provide not only educational links but also will help further understanding of how different individuals experience nature.

Funding Considerations*

Why is the Black Mountain - Swannanoa Valley Endowment Fund support critical to the success of this project?

Although enthusiastically and unanimously supported by the Town Council, Flat Creek Crossing Accessible Trail will not receive any *financial* support from the Town. The project is to be funded entirely through private donations and grants. The Flat Creek Crossing Accessible Trail Project Team of Montreat Landcare Committee is actively seeking private donations, holding fund-raising events and applying for grant-funding. As of February first, we have raised $37,348 in individual and small private foundation donations. In addition, Landcare sells watercolor prints and notecards by a local artist, with sales to date of $5,579. We have hosted two fund-raising events and are planning a third for this year in collaboration with a local singer-songwriter. A new QR code is facilitating online giving. All of these efforts have raised public awareness and anticipation. To finish the project, we clearly need grant funding. The design and site amenities required for a truly accessible trail involve higher costs than regular construction. The creekside location requires special engineering, bank stabilization and stormwater management systems. In order for the site to also provide Town vehicle access in case of emergency, (in the event the Rainbow Terrace bridge is blocked) a wider route, road worthy materials and vehicle barriers are needed. Riparian buffer planting and creek protection measures are also part of the plan. Signage including Braille, educational materials and resources designed for neurodiverse users of the trail will be more costly to develop and keep up to date. Ongoing maintenance to sustain the project is also important. With all of these considerations in mind, the project has been broken into five phases. With BMSV Community Endowment Fund help, Phase 1 can be completed in 2024 giving impetus to major grant sources to finance Phases Two through Five. This first work is critical to the success of the project.

Background on Organization*

Summarize your organization’s purpose and major programs or services. Describe the organization's accomplishments during the past year, especially as they relate to the Black Mountain - Swannanoa Valley community.

Montreat Landcare was founded in 2007. Its structure follows the internatiional Landcare model begun in Australia of linking citizens with government, business, researchers, natural resource management agencies and communities to work together on environmental needs. These partnerships build community ownership of issues; unlock volunteer knowledge, capability and capacity to create better environmental outcomes. Through its appointed members and dedicated volunteers, Montreat Landcare has an impressive history of getting things done. Representatives from the Town of Montreat, Montreat College, Montreat Conference Center, National Wildlife Federation, Montreat Cottagers Wilderness and Open Spaces, Earth Ministry of Montreat Presbyterian Church as well as many volunteers and 'citizen scientists' serve on the committee.. Proof of the group’s effectiveness is seen in these recent successes: National Wildlife Federation designation as a Community Wildlife Habitat; certification as Tree City; as a Firewise community; Bearwise community; upholding the Mayor’s Monarch Pledge; partnering with the Blue Ridge Parkway Foundation on Kids in Parks and with the NC Arboretum on EcoEXPLORE; constructing the Town Hall rain garden and pocket park; restoring Hemlock trees and planting trees alongside American Chestnut Foundation. All of these community-based projects have in common protection of land, water and habitat with an emphasis on citizen education and involvement. Open meetings are held each month and current projects include Stream Team water quality monitoring, rain garden and other stormwater management education, Children and the Outdoors, annual native plant sale, and now, Flat Creek Crossing Accessible Trail. More information can be found at www.montreatlandcare.org.

Attachments

NOTE: Only one document upload is allowed per section, so multiple documents will need to be combined into one document prior to each upload.

Budget Form*

The budget form is in Excel format. Please click on the blue link below "Click here to download the Budget Form" to download. Once you have completed the budget form, save it on your computer. After you have saved your budget form, click the button below and browse to your saved budget form. Click on it to complete the upload.
Click here to download the Budget Form

CFWNC Budget draft-2.xlsx

Board of Directors

The Board of Directors (BOD) form is in WORD format. Please click on the blue link below "Click here to download Board of Directors Form" to download. **(Please be sure to download this NEW version of the board form and do not use previous forms.)** Save the Board of Directors form to your computer. When you are ready to submit the form, click the "Upload a file" button below, browse to your saved BOD form, and click on it to complete the upload. ***PLEASE NOTE****: While you may upload your own board list, there are 3 governance questions on the CFWNC Board of Directors form that you must answer; therefore, if you choose to use your own board list, then you should copy and paste the questions into your own board list, answer them, and then upload.*
(This BOD upload is not necessary for public agencies.)
Click here to download Board of Directors Form

Financial Documents

Please submit 2 reports of your organization's finances:
1.) A profit and loss statement for the **past fiscal year**. This is sometimes referred to as an Income Statement and shows an organization's revenue, expenses and net income.
2.) A recent balance sheet (**within 60 days**). A balance sheet shows an organization's assets, liabilities and net assets.
Please combine these 2 reports into one document and then upload.
(Not necessary for public agencies, e.g. public schools.)

Other documents

These would be documents that demonstrate viability of the project or further explain the use of the requested funds.

Certification

By submitting this form, the above-named organization and the persons listed below hereby give permission for this proposal to be shared with Foundation donors and other appropriate parties and hereby certify: (1) that the information provided in this form is correct; (2) that the governing board of the organization has been notified of this proposed project; and (3) that the organization is in compliance with all applicable federal, state, and local laws and regulations, including but not limited to those prohibiting discrimination against a person or group on the basis of age, race, national origin, ethnicity, gender, disability or religious belief.

Name of Executive Director or Head of Organization*

Savannah Parrish, Town Manager

Name of Board Chair

Grant Report Acknowledgment*

By checking the following box, you acknowledge that, if awarded a grant from this grant program: (1) your organization is required to submit a completed grant report in this online grant system by the date(s) specified in the grant award letter; and (2) your organization will be ineligible to apply for any future grants from CFWNC if a report is past due and is not submitted to and accepted by CFWNC.

Yes, I am aware of the grant report requirement and of the consequences for failing to meet it.

Electronic Funds Transfer (EFT) Acknowledgment*

CFWNC makes grant payments by electronic funds transfers (EFT) through the Automated Clearing House (ACH) system. If CFWNC approves a grant in connection with the application you are submitting, your organization must have current bank information on file with CFWNC for the organization to receive payment. Failure to provide accurate and timely bank information may delay or prohibit a grant award for this application.

Yes, I am aware of CFWNC's EFT requirements in order to receive a grant award payment.

File Attachment Summary

Applicant File Uploads

- CFWNC Budget draft-2.xlsx

PROGRAM/PROJECT BUDGET

APPLICANTS SEEKING PROGRAM/PROJECT FUNDING MUST COMPLETE THIS FORM. NO OTHER BUDGET FORMS WILL BE ACCEPTED.

Enter your organization's name here:	Town of Montreat
Total Cost of Program/Project:	$305,228.00
Total Amount Requested from CFWNC:	$10,000.00
Timeframe during which grant funds will be spent:	01/08/2024 to 01/04/2025 - August through March

Please enter below the income and expenses related to the total program/project.

INCOME

Funding Sources for this Program/Project	Total Amount	Status - Pending or Committed (if pending include anticipated decision date)	Explanatory Notes *(Optional)*
CFWNC _ Black Mountain-Swannanoa Valley EF	$10,000.00	Pending (end of April)	Current grant request
Individual and small private foundation donations	$37,348.00	Private Contributions	Ongoinf fundraising effort
Sale watercolor prints & notecards -Montreat scenes	$5,579.19	Merchandise Sales Gross	Ongoing fundraising effort
Pigeon River Fund	$35,000.00	Pending (mid-May)	
Total Income	**$87,927.19**		

EXPENSES

Item	Total Cost	Amount of CFWNC Grant to be used for this item	Explanatory Notes *(Optional)*
Design,engineering,project mngmt	$45,606.00	$0.00	Project mngment 10% of project cost
Site Prep	$15,070.00	$0.00	Erosion control; tree,debris,paving removal
Permits,waste management	$4,785.00	$0.00	
Site Stabilization -North Bank - Phase 1	$23,310.00	$10,000.00	Boulder outcrops, planting, stone steps
Site Stabilization-South Bank (Creek side)	$16,565.00	$0.00	Consecutive with trail construction, riparian buffer
Trail,stormwater infrastructure, site amenities	$102,300.00	$0.00	ADA compliant, withstands flooding, runoff filtration
Parking, Welcome Zone	$57,530.00	$0.00	includes signs with braille
Public Ed & Outreach,Post completion support	$40,062.00	$0.00	interactive digital, site maintemance
Total Expenses	**$305,228.00**	**$10,000.00**	

Your organization maintains an operating reserve: __ YES __ NO _x_ n/a This reserve could sustain your organization for ____ months.

Provide any additional information below that may help clarify your budget:

It is expected this project will take 2-3 years to complete. Due to the unpredictability of labor and materials costs, a 10% contingency allowance is reflected in each expense line . The trail provides vehicular access for Town maintenance and must be 10' wide and vehicular grade instead of the more common, narrower trails/surfaces. Site amenities meet ADA standards.

TA-2024-01
Text Amendment

Montreat Board of Commissioners
February 8, 2024

TOWN OF MONTREAT
NORTH CAROLINA

1

1

Background

- The Montreat Zoning Ordinance (MZO) Section 602 dictates that no building, structure, or use of land be permitted until the lot has legal and physical vehicular access to a dedicated and accepted public street.
- For lots that do not have access to streets, a legal access easement must be established that is…
  1. A minimum of 12 feet wide.
  2. Physically passable for vehicular traffic.
  3. An easement of record and appurtenant to the lot for which it provides access.
- The Wyatt Edsel represents the Applicant & Property Owner of PIN# 071077202100000, which is on the eastern side of Harmony Lane. The Subject Property is separated from Harmony Lane (the nearest public street) by Little Piney Branch.
- The Board of Commissioners granted the Property Owner an access easement across Little Piney Branch on February 9, 2023.

2

2

Background

The Montreat General Ordinance (MGO) Chapter K Article III…

Defines built-upon area as:

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

Chapter K Article III Section 305(1) contains the following language:

***All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water** as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A **perennial or intermittent surface water** shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.*

3

3

Background

- Little Piney Branch is shown on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) and is considered a Class C Water of the United States.
- The built-upon area restriction in Section 305(1) applies to Little Piney Branch and prevents the Property Owner from installing the needed driveway or bridge across the stream to access the Subject Property.
- Variances are not permitted in the Stormwater Ordinance.
- The Applicant submitted this Text Amendment to allow exceptions to the built upon area restriction to be granted by the Stormwater Administrator for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing.
- The Applicant's proposed Text Amendment would not permit structures associated with residential development or any structures or access for non-residential development to utilize this exception.
- Many other jurisdictions in the region who operate local stormwater management programs in the region permit exceptions to buffers for residential development.

4

4

Existing Language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

5

5

APPLICANT Proposed Language

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory

6

6

LEGAL COUNSEL Proposed Language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

305. General Standards

a) At the request of the Applicant as set out in the Stormwater Permit Application and shown on the Stormwater site plan submitted in accordance with Section 303 or an Application for an amendment, the Stormwater Administrator may grant a reduction in the surface water buffer or an exception from the built-upon area requirement in Section 305(1) for an impervious driveway or bridge to provide access to Applicant's site or utilities to serve Applicant's site when the Applicant meets the following requirements: (i) the Applicant provides evidence that alternatives for a driveway or bridge to provide access would increase the amount of imperious surface or stormwater runoff, would increase the number of trees and other vegetation removed, or would increase the cost of the driveway, bridge or utility structure sufficiently to make the Applicant's plan impractical or impossible; and (ii) the Applicant's Stormwater site plan shows a driveway, bridge, or utility structure that is located, designed, constructed, and maintained to minimize impervious surface, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory. The Stormwater Administrator may require the Applicant to provide a letter from the North Carolina Department of Environmental Quality, the United States Army Corps of Engineers and any other federal, state or local governmental agency with jurisdiction stating that the reduction in the surface water buffer meets applicable federal, state and local requirements (other than Section 305).

7

7

STREAM CROSSING EXAMPLES









8

8

Board of Commissioners
Action

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

9

9

TA-2024-01
Text Amendment

Montreat Board of Commissioners
February 8, 2024

TOWN OF MONTREAT
NORTH CAROLINA

10

10

January 31, 2024

PROPOSED LANGUAGE (from Susan Taylor Rash, Town of Montreat Attorney)

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant as set out in the Stormwater Permit Application and shown on the Stormwater site plan submitted in accordance with Section 303 or an Application for an amendment, the Stormwater Administrator may grant a reduction in the surface water buffer or an exception from the built-upon area requirement in Section 305(1) for an impervious driveway or bridge to provide access to Applicant's site or utilities to serve Applicant's site when the Applicant meets the following requirements: (i) the Applicant provides evidence that alternatives for a driveway or bridge to provide access would increase the amount of imperious surface or stormwater runoff, would increase the number of trees and other vegetation removed, or would increase the cost of the driveway, bridge or utility structure sufficiently to make the Applicant's plan impractical or impossible; and (ii) the Applicant's Stormwater site plan shows a driveway, bridge, or utility structure that is located, designed, constructed, and maintained to minimize impervious surface, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory. The Stormwater Administrator may require the Applicant to provide a letter from the North Carolina Department of Environmental Quality, the United States Army Corps of Engineers, and any other federal, state, or local governmental agency with jurisdiction stating that the reduction in the surface water buffer meets applicable federal, state and local requirements (other than Section 305).

TOWN OF MONTREAT
NORTH CAROLINA

ORDINANCE AMENDMENT APPLICATION

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

INSTRUCTIONS

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

APPLICANT INFORMATION

APPLICANT NAME: GARY HIBBARD TELEPHONE: 760 9086537

MAILING ADDRESS: 215 Bins WAY CITY: Bonners Ferry STATE: Id ZIP: 83805

LOCAL ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

EMAIL: ghc.secure.1952@gmail.com

PROPOSED AMENDMENT

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

CHAPTER, ARTICLE, & SECTION TO BE AMENDED: MGO Chapter K Article III Section 305(1)

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

STATE THE REASON FOR THE REQUEST (ATTACH SHEETS AS NECESSARY): _____

LIST SUPPORTING & ATTACHED DOCUMENTS: _____

Packet Page 47

SIGNATURES AND ACKNOWLEDGEMENT

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

Gary Higgins — *Signature of Applicant*

1/4/24 — *Date*

GARY HIGGINS — *Printed Name of Applicant*

OFFICE USE ONLY

Complete Incomplete

Zoning Administrator Signature — *Date*

Printed Name of Zoning Administrator

Fee:_____ Paid: Yes No Payment Method:_____

Scheduled Planning and Zoning Commission Meeting Date:_____

Scheduled Board of Commissioner Meeting Date:_____

PROPOSED LANGUAGE

Color key for amendments:

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→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
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1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory.

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

Staff Report
TA-2024-01

Text Amendment Request (TA-2024-01) – A Text Amendment request (TA-2024-01), submitted by Wyatt Edsel (on behalf of Gary Higgins, Property Owner) to amend Chapter K Article III Section 305(1) of the Montreat General Ordinance to permit an exception to the built-upon area buffer requirement for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing.

Created by:

Kayla DiCristina, AICP,
Zoning Administrator
Town of Montreat

Created for:

Town of Montreat Board of Commissioners
February 8, 2024

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REQUEST SUMMARY

Background

Wyatt Edsel, of Edsel Engineering, is representing Gary Higgins ("Property Owner" and "Applicant"), the property owner of PIN# 071077202100000, which is on the eastern side of Harmony Lane ("Subject Property").

The Montreat Zoning Ordinance (MZO) Section 602 dictates that no building, structure, or use of land be permitted until the lot has legal and physical vehicular access to a dedicated and accepted public street. For lots that do not have access to streets, a legal access easement must be established that is a minimum of 12 feet wide, physically passable for vehicular traffic, and be an easement of record and appurtenant to the lot for which it provides access.

The Subject Property was platted under the original plat of Montreat in 1906 (Plat Book 154, page 2) with no access to a street. The Subject Property is separated from Harmony Lane (the nearest public street) by Little Piney Branch. Subsequent platting of the Subject Property through 1984 did not correct the road access issue. On February 9, 2023, the Board of Commissioners granted the Property Owner a thirty-foot access easement from the right-of-way of Harmony Lane across Little Piney Branch to the Subject Property to meet the conditions of Section 602 of the MZO.

Now that the Subject Property has legal access to a right-of-way, the Property Owner wants to construct a single-family dwelling on the Subject Property.

Stormwater Ordinance

Chapter K Article III of the Montreat General Ordinance (MGO) defines built-upon area as:

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

Chapter K Article III Section 305(1) of the MGO contains the following language:

All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the

Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

In other words, Chapter K Article III Section 305(1) of the MGO prohibits any impervious surface within 30 feet of a perennial or intermittent stream. A perennial or intermittent surface water (i.e. stream) is present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). No exemptions are given under the MGO unless the stream is determined to be ephemeral by the North Carolina Department of Environmental Quality.

Little Piney Branch is shown on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). While the Property Owner did not obtain a formal stream determination from the North Carolina Department of Environmental Quality, Little Piney Branch is considered a Water of the United States and is classified as "C" per correspondence with Andrew Moore (Environmental Specialist II, Division of Water Resources). Class C streams are protected due to aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish). Class C streams therefore have the presence of water either year-round or part of the year (making them either intermittent or ephemeral). Therefore, the built-upon area restriction in Chapter K Article III Section 305(1) of the MGO applies to Little Piney Branch and prevents the Property Owner from installing the needed driveway or bridge across the stream to access the Subject Property. Variances are not permitted in the Town's Stormwater Ordinance. As a note, the Property Owner has been in contact with the United States Army Corps of Engineers (USACE) and the North Carolina Department of Environmental Quality Division of Water Quality (NCDEQ DWR) and has received an OK from both agencies to proceed with his project. The Property Owner's proposed driveway is approved under USACE Nationwide Permit #18 and NCDEQ DWR Water Quality General Certification # 4249.

The Applicant submitted this Text Amendment to allow exceptions to the built-upon area restriction to be granted by the Stormwater Administrator for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing. The amended text stipulates that the crossing is to be located, designed, constructed, and maintained to minimize impervious surface,

protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable using the Best Management Practices (i.e. stormwater management measures). This text amendment would not apply to structures of residential development (like homes or accessory buildings) or any structures or access to non-residential development.

It is important to note that, as demonstrated later in this staff report, many other jurisdictions that have local stormwater management programs allow exceptions to buffer rules for residential development. This Property Owner is not the only resident of Montreat who has found this buffer to be restrictive for single-family residential development.

EXISTING LANGUAGE

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

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PROPOSED LANGUAGE

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
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a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory.

STAFF RESEARCH

DiCristina reviewed the Unified Development Ordinances of Asheville, Black Mountain, Woodfin, Weaverville, Buncombe County, Hendersonville, and Fletcher to examine existing regulations related to exceptions to built-upon area buffers. Verbatim excerpts from these

ordinances are included at the end of this staff report. As a note, not all municipalities regulate stormwater.

City of Asheville Unified Development Ordinance (Chapter 7)

Article XII Section 7.12.2(e)(2)(a)(1) of the City of Asheville's Unified Development Ordinance (UDO) prohibits land disturbance within 30 feet of intermittent or perennial surface waters. Section 7.12.2(j)(2)(a) requires the Stormwater Administrator to grant an exception to this requirement when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. This section goes on to state that the crossing must be located, designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. Subsection b under Section (j)(2) limits the exception to 100 linear feet of disturbance in each 1,000 linear feet of aquatic buffer on the development site. As a note Section 7.12.2 (j)(1) permits an Applicant to apply for a Variance to stormwater requirements.

Town of Black Mountain Unified Development Ordinance (Chapter 8)

Section 8.2.14(C) of the Town of Black Mountain's UDO requires a 30-foot built-upon area buffer to intermittent or perennial surface waters. Section 8.2.16(B) an exception to the built-upon area requirement may be granted when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. The section goes on to state that the exception must be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures. As a note Section 8.2.16(A) permits an Applicant to apply for a Variance to stormwater requirements.

Town of Weaverville Unified Development Ordinance (Chapter 20)

Section 20-1112 of the Town of Weaverville's UDO states that the Town utilizes Buncombe County's stormwater regulations. These regulations are enforced by Buncombe County for the Town of Weaverville.

Town of Woodfin Unified Development Ordinance (Chapter 41)

Section 41-12(a) of the Town of Woodfin's UDO requires a 30-foot built-upon area buffer to intermittent or perennial surface waters. Section 41-12(b) permits access encroachments into the 30-foot buffer for pre-existing lots (those established before the UDO) for the purpose of transportation and access if the following criteria are met:

(1) It is for the purpose of vehicles or non-motorized transportation and access only, such as trails, greenways, walkways, driveways, alley ways or access roads. Residential, accessory or commercial structures are not included in this encroachment allowance;
(2) Utility structures that follow the right-of-way for the access are only allowed within the disturbance area of the roadway, an existing utility easement or bridge structural footprint;
(3) It is the minimum encroachment necessary for access of the property, or is part of a trail, sidewalk or street alignment included on the Town of Woodfin's pedestrian master plan, greenway plan or transportation plan or other approved master plan;
(4) The encroachment area does not exceed more than ten percent of the total land area within the required buffer area, and shall never exceed more than 100 feet of linear disturbance for 1,000 feet of linear stream;
(5) Provides the minimum area of disturbance needed for access and includes mitigation of stream and stream bank disturbance as part of the design;
(6) Encroachments which include stream crossing should be designed so that crossing is perpendicular to the stream centerline to the maximum extent practicable; and
(7) Encroachments which are parallel to the watercourse should be designed to incorporate the maximum buffer practicable and still allow the necessary encroachment. Additional stormwater management techniques to slow and filtrate run-off should be included between the disturbed area and the waterway. Such parallel encroachments may be subject to additional review by the division.
(8) Any encroachment into the required surface water buffer which exceeds this allowance shall require a variance from the board of adjustment.

Buncombe County Unified Development Ordinance (Chapter 26)

Section 26-362 of the Buncombe County UDO requires a 30-foot built-upon area buffer for intermittent or perennial surface waters. Section 26-362(b)(9) permits variances to stormwater regulation requirements, but no other exceptions are stated in the UDO.

Hendersonville Unified Development Ordinance (Chapter 24)

Section 17-3-3 of the City of Hendersonville's UDO requires a 30-foot disturbance buffer to intermittent or perennial surface waters (although this provision is under Stream Protection, not stormwater). Under Section 17-3-5 the Planning Director may permit crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities. Crossing must meet the following requirements:

1. These crossings shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer.
2. The property owner or applicant demonstrates to the satisfaction of the planning director that such facilities cannot be practicably located outside of the stream

buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.

3. Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.
4. A vegetated buffer of a width approved by the planning director shall be required around the stormwater control structures.
5. Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the planning director.

This section goes on to state that streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is no more than is necessary considering the design capacity of the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvements related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

Town of Fletcher Unified Development Ordinance (Article 6)

Section 6.5(G) of the Town of Fletcher's UDO requires a 30-foot built upon area buffer to intermittent or perennial surface waters. Section 6.5(J)(3) an exception to the built upon area requirement may be granted when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. The section goes on to state that the exception must be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures. As a note Section 6.5(J) permits an Applicant to apply for a Variance to stormwater requirements.

BOARD OF COMMISSIONERS ACTION

Per Section 160D-601(a) of the North Carolina General Statute, before adopting, amending, or repealing any ordinance or development regulation, the governing body shall hold a properly noticed legislative hearing. This public hearing was noticed in the Black Mountain Newspaper on January 25, 2024, and February 1, 2024. Section 160D-604 of the North Carolina General Statute states that the governing body may refer any development

regulation that is proposed to be adopted to the Planning and Zoning Commission for review and comment before making their final decision.

STAFF RESEARCH ORDINANCE EXCERPTS

City of Asheville Unified Development Ordinance (Chapter 7)

Section 7.12.2(e)(2)

a. Land disturbing activity subject to this section shall be undertaken in accordance with the following requirements:

    1. Land-disturbing activity shall not occur within a 30-foot undisturbed buffer around all perennial and intermittent surface waters.

Section 7.12.2 (j)

1) Variances: Any aggrieved person may petition for a variance to the board of adjustment to use one's land in a manner otherwise prohibited by this section. Variances may also be requested from the aquatic buffer requirements, deed restrictions and protective covenants required herein. Reasonable and appropriate conditions and safeguards may be imposed on any variance granted. Merely providing that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. All of the procedural requirements of the entity charged with granting a variance shall be met by the applicant. Provided however, only the NCDENR—Division of Land Resources may grant a variance or exception as herein below set forth, to aquatic buffers along designated trout streams. The stormwater administrator may support an applicant's appeal for a variance if the applicant's application satisfies all of the following criteria:

    a. Unnecessary hardships would result from strict application of this section.

    b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

    c. The hardships did not result from actions taken by the applicant.

    d. The requested variance is consistent with the spirit, purpose, and intent of this section; will protect water quality; will secure public safety and welfare; and will preserve substantial justice.

2) Exceptions: The stormwater administrator may approve plans that do not comply with the mandatory standards of subsection 7-12-2(e)(2) of this section if the land disturbing activity is for the construction of facilities to be located on, over, or under a lake or natural water course or work done for the purposes of creating trails, walkways, river access areas, and similar facilities along the rivers, creeks or streams. Where one or more measures

required under subsection 7-12-2(e)(2) are not practicable, the stormwater administrator may approve plans provided that additional measures are installed that provide the same level of treatment, discharge and velocity control.

a. Required exceptions: Notwithstanding the variance allowance herein, the stormwater administrator shall grant an exception from the aquatic buffer requirements, deed restrictions and protective covenants in any of the following instances:

    1. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs.

    2. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

    3. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

b. Limitation of aquatic buffer with a granted exception: Where a temporary and minimal disturbance has been permitted as an exception to the aquatic buffer, to the extent practicable, land disturbing activities in the aquatic buffer shall be limited to a maximum of ten percent of the total length of the aquatic buffer within the site to be disturbed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of aquatic buffer.

Town of Weaverville Unified Development Ordinance (Chapter 20)

Section 20-1112.

The town has consented to the application of the Buncombe County construction and post-construction stormwater control regulations within the town's jurisdiction and all permitting, inspections and enforcement of those regulations shall be conducted by Buncombe County.

Section 8.2.14.

c. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology. Encroachment allowances may be made as described in 4.3.2.

Section 8.2.16.

A. Any person may petition the Town of Black Mountain for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. The Town of Black Mountain may impose reasonable and appropriate conditions and safeguards upon any variance it grants. To qualify for a variance, the petitioner must show all of the following:

1. Unnecessary hardships would result from strict application of this ordinance.

2. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

3. The hardships did not result from actions taken by the petitioner.

4. The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.

B. Statutory exceptions. Notwithstanding subsection (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

1. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

2. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

    1. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

    2. The stormwater runoff from the entire impervious area of the development is collected, treated and discharged so that it pass through a segment of the vegetative buffer and is managed so that it otherwise complies with all applicable state and federal stormwater management requirements.

Town of Woodfin Unified Development Ordinance (Chapter 41)

Section 41-12.

a. Setback requirement. All built-upon area shall provide a minimum buffer of 30 feet on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division approved methodology.

b. Access encroachments. Pre-existing lots and those areas identified in adopted master plans are allowed a minimum encroachment into the 30-foot buffer for the purpose of transportation and access if all of the following criteria are met:

    1) It is for the purpose of vehicles or non-motorized transportation and access only, such as trails, greenways, walkways, driveways, alley ways or access roads. Residential, accessory or commercial structures are not included in this encroachment allowance;

2) Utility structures that follow the right-of-way for the access are only allowed within the disturbance area of the roadway, an existing utility easement or bridge structural footprint;

3) It is the minimum encroachment necessary for access of the property, or is part of a trail, sidewalk or street alignment included on the Town of Woodfin's pedestrian master plan, greenway plan or transportation plan or other approved master plan;

4) The encroachment area does not exceed more than ten percent of the total land area within the required buffer area, and shall never exceed more than 100 feet of linear disturbance for 1,000 feet of linear stream;

5) Provides the minimum area of disturbance needed for access and includes mitigation of stream and stream bank disturbance as part of the design;

6) Encroachments which include stream crossing should be designed so that crossing is perpendicular to the stream centerline to the maximum extent practicable; and

7) Encroachments which are parallel to the watercourse should be designed to incorporate the maximum buffer practicable and still allow the necessary encroachment. Additional stormwater management techniques to slow and filtrate run-off should be included between the disturbed area and the waterway. Such parallel encroachments may be subject to additional review by the division.

8) Any encroachment into the required surface water buffer which exceeds this allowance shall require a variance from the board of adjustment.

***Buncombe County Unified Development Ordinance* (Chapter 26)**

Section 26-362 (b)(1)

d. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture of the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

Section 26-362 (b)(2)

c. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map

prepared by the Natural Resources Conservation Service of the United States Department of Agriculture of the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

Section 26-362 (b)(9) (9)

a. Any person may petition to the board of adjustment or such other local governing body having jurisdiction in the area where the project is located for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. To qualify for a variance, the petitioner must show all of the following:

1. Unnecessary hardships would result from strict application of this article.

2. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

3. The hardships did not result from actions taken by the petitioner.

4. The requested variance is consistent with the spirit, purpose, and intent of this article; will secure public safety and welfare; and will preserve substantial justice.

Hendersonville Unified Development Ordinance (Chapter 24)

Section 17-3-2

Stream buffers shall apply on each side of the stream and shall measure 30 feet horizontally from the top of the stream bank in a direction perpendicular to the stream flow.

Section 17-3-3

To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken therein, except as provided in section 17-3-5. Furthermore, there shall be a 20-foot transitional area immediately landward of the stream buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. Certain uses of land, as specified in section 17-3-5, below, may be permitted within the stream buffer so long as they meet the requirements of that section and are designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation. Nothing herein is intended to preclude the removal of downed vegetation from the stream bed in order to improve stream flow dynamics. If it is necessary to remove downed or dead vegetation, it should be cut and the root ball left in place to help maintain stability of the shoreline. Nothing herein is intended to [or shall] preclude any activity specifically authorized pursuant to Section 401 and/or Section 404 of the Clean Water Act.

Section 17-3-5

Subject to prior written authorization by the planning director, the following activities may be undertaken within the stream buffer provided they meet all the standards specified herein as well as other applicable provisions of the zoning ordinance:

a. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Streets and driveways may run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design minimizes the amount of intrusion into the stream buffer. Crossings with a width of 40 feet or more are permitted only when it has been demonstrated that there is no practical alternative.

b. Stream buffers may be used for passive recreational activities, such as unpaved or paved trails or greenways, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the stream buffer. Where practical, such activities shall be kept at least 15 feet from the stream bank.

c. Clearing and revegetating the stream buffer pursuant to a plan approved by the planning director when it has been demonstrated that such clearing and revegetation will improve stream buffer's pollutant removal efficiency.

d. Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in stream buffers, provided that:

    1. The property owner or applicant demonstrates to the satisfaction of the planning director that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.

    2. Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.

    3. A vegetated buffer of a width approved by the planning director shall be required around the stormwater control structures.

    4. Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the planning director.

e. Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in stream buffers, provided that:

1. The property owner or applicant demonstrates in writing to the satisfaction of the director of water and sewer that the sanitary sewer lines cannot be practicably located outside of the stream buffer;

2. Design and construction specifications minimize damage to the stream and the possibility of line leakage;

3. The sewer line is located at least 15 feet from the top of the stream bank; and

4. The sanitary sewer plan and a plan for revegetating the stream buffer disturbance shall be approved by the director of water and sewer.

f. Streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is no more than is necessary considering the design capacity of the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvements related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

g. Selective removal of invasive exotic species in accordance with a plan approved by the planning director.

h. View corridors are allowed so long as the soil is undisturbed and the natural forest floor, ground cover and understory vegetation are left intact. Pruning associated with the creation and maintenance of a view corridor is exempt. Thinning of the overstory and mid-canopy trees is permissible with the written authorization of the planning director.

Site plan approval by the planning director shall be required for any of the stream buffer intrusions described above. When any of the activities described above involves land clearing, the cleared area shall be revegetated pursuant to an approved plan. However, where a site plan is not required by any other provision of the zoning ordinance, the director of public works is authorized to approve plans for stream piping and erosion control structures in stream buffers.

Town of Fletcher Unified Development Ordinance (Article 6)

Section G.

6. All built-upon area shall be at a minimum of 30-feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by

the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when site-specific determination made using NC Division of Water Quality-approved methodology.

Section J

1. Conditions The Town of Fletcher may impose reasonable and appropriate conditions and safeguards upon any variance it grants. Additional fees shall be required for the technical evaluation of variances that are contracted to another local government or private entity.

2. Applicability Any person may petition the Town of Fletcher for a variance granting permission to use the person's land in a manner otherwise prohibited by this Section. To qualify for a variance, the petitioner must show all of the following:

    a. Unnecessary hardships would result from strict application of the requirements of this Section.

    b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

    c. The hardships did not result from actions taken by the petitioner.

    d. The requested variance is consistent with the spirit, purpose, and intent of this Section; will secure public safety and welfare; and will preserve substantial justice.

3. Statutory Exceptions Notwithstanding 6.5.D.2, , Exemptions to Applicability, exceptions from the 30-foot landward location of built-upon area requirement of all perennial and intermittent surface waters as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

    a. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

    b. When there is a lack of practical alternatives for stormwater treatment measures.

        i. These measures shall be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against

erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable.

ii. The implementation of the stormwater treatment measures shall not disturb existing vegetation.

iii. Minor understory may be disturbed in order to accommodate these measures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place.

c. When there is a lack of practical alternatives for utilities, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

d. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

TA-2024-01
Text Amendment

Montreat Board of Commissioners
February 8, 2024

TOWN OF MONTREAT
NORTH CAROLINA

1

1

Background

- The Montreat Zoning Ordinance (MZO) Section 602 dictates that no building, structure, or use of land be permitted until the lot has legal and physical vehicular access to a dedicated and accepted public street.
- For lots that do not have access to streets, a legal access easement must be established that is…
  1. A minimum of 12 feet wide.
  2. Physically passable for vehicular traffic.
  3. An easement of record and appurtenant to the lot for which it provides access.
- The Applicant represents the Property Owner of PIN# 071077202100000, which is on the eastern side of Harmony Lane. The Subject Property is separated from Harmony Lane (the nearest public street) by Little Piney Branch.
- The Board of Commissioners granted the Property Owner an access easement across Little Piney Branch on February 9, 2023.

2

2

Background

The Montreat General Ordinance (MGO) Chapter K Article III…

Defines built-upon area as:

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

Chapter K Article III Section 305(1) contains the following language:

***All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water** as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A **perennial or intermittent surface water** shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.*

3

3

Background

- Little Piney Branch is shown on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) and is considered a Class C Water of the United States.
- The built-upon area restriction in Section 305(1) applies to Little Piney Branch and prevents the Property Owner from installing the needed driveway or bridge across the stream to access the Subject Property.
- Variances are not permitted in the Stormwater Ordinance.
- The Applicant submitted this Text Amendment to allow exceptions to the built upon area restriction to be granted by the Stormwater Administrator for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing.
- The Applicant's proposed Text Amendment would not permit structures associated with residential development or any structures or access for non-residential development to utilize this exception.
- Many other jurisdictions in the region who operate local stormwater management programs in the region permit exceptions to buffers for residential development.

4

4

Existing Language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

5

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Proposed Language

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory

6

6

STREAM CROSSING EXAMPLES









7

7

Board of Commissioners
Action

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

8

8

TA-2024-01
Text Amendment

Montreat Board of Commissioners
February 8, 2024

TOWN OF MONTREAT
NORTH CAROLINA

9

9

ORDINANCE #_____

AN ORDINANCE AMENDING THE TOWN OF MONTREAT GENERAL ORDINANCE
TA-2024-01

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

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

WHEREAS, pursuant to Section 160D-601(a) of the North Carolina General Statutes, the Town of Montreat used the adoption process mandated for zoning text amendments to adopt revisions to the Montreat General Ordinance, which is a development ordinance. A public hearing was noticed on January 25, 2024, and February 1, 2024, in the *Black Mountain News* newspaper and held on February 8, 2024; and

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

The following revisions (shown in **bold**) be made to Chapter K Article III Section 305(1) General Standards:

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory.

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

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

_____

Tim Helms, Mayor

_____

Savannah Parrish, Town Manager

Rule 30. Appointments

A. The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The Board may not consider or fill a vacancy among its own membership except in open session.

B. Rather than proceeding by motion, the Board shall use the following procedure to make appointments to various other boards and offices:

- The Mayor shall open the floor for nominations, whereupon the names of possible appointees may be put forward by Board members.
- The names submitted shall be debated.
- When the debate ends, the Mayor shall call the roll of the Board members, and each member shall cast his or her vote.

If more than one appointee is to be selected, then each Board member shall have as many votes as there are slots to be filled. The votes from a majority of the Board members voting shall be required for appointment. A Board member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate.

FUND BALANCE POLICY

TOWN OF MONTREAT FUND BALANCES POLICIES

The Local Government Commission of the NC Department of State Treasurer (LGC) recommends that local governments develop a fund balance policy to assist in cash flow management and help insure financial stability in the event of unforeseen circumstances. The LGC recommends that each local government determine the level of fund balance required under its fund balance policy based on such local government's specific needs and circumstances, using information provided by the LGC and other tools as a guide.

I. OBJECTIVES

The objectives of this Fund Balance Policy are as follows:

- Plan for contingencies. Fund balances can provide the funds needed to offset unexpected decreases in revenue or unexpected increases in operating costs or capital expenditures.
- Adequate cash flow management. Fund balances can provide the funds needed to maintain liquidity during the times of the year when levels of incoming revenue are low.
- Maintain credit rating. Adequate fund balances enhance the Town's ability to repay debt on time and in full, and thus will help maintain the Town's credit and bond ratings.
- Generate investment income. Fund balances can be a source of investment income that diversifies revenue streams and decreases reliance on taxes.
- Creating a Shared Understanding. A formal fund balance policy clearly outlines appropriate use of funds in fund balances.

II. ADMINISTRATION AND IMPLEMENTATION

The Town Manager and Finance Officer are charged with carrying out this Fund Balance Policy. The Town Manager shall develop operating budgets that maintain the Available Fund Balance and the Accessible Fund Balance in accordance with this policy. The Finance Officer shall maintain the Town's finances in compliance with this policy. The Town Manager and Finance Officer shall periodically review fund balances maintained by municipalities similar in size to the Town that provide similar services, as well as other resources provided by the LGC, to evaluate the adequacy of maintain the Available Fund Balance percentage and the Accessible Fund Balance percentage required in this policy.

III. FUND BALANCE AND COMPONENTS OF FUND BALANCE

"Fund balance" is a term used in government accounting and is defined as the difference between a fund's assets and liabilities. Government Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, governs the descriptions used to report fund balance. The statement focuses on the "extent to which the government is bound to honor constraints on the specific purposes for which amounts in the fund can be spent" and breaks the total fund balance into five different components:

- Non-spendable fund balance represents amounts that cannot be spent because they are either (a) physically not in spendable form or (b) legally or contractually required to be maintained intact (e.g., inventory and prepaid items).
- Restricted fund balance represents amounts that can be spent only for the specific purposes stipulated by state law or the external resource providers, whether constitutionally or through enabling legislation (e.g., grants, debt proceeds, Powell Bill funds and other funds restricted by state statute).
- Committed fund balance represents amounts that have been can only be used for the specific purposes determined by a formal action by the Board of Commissioners (including through a resolution or ordinance).
- Assigned fund balance represents amounts earmarked by the Town for specific purposes. An example includes funds assigned by the Board of Commissioners for specific capital projects.
- Unassigned fund balance represents the residual classification of the general fund and includes all spendable amounts not contained in the other categories.

IV. AVAILABLE FUND BALANCE POLICY

The Town Board of Commissioners hereby establishes a policy requiring the "Available Fund Balance" for the general fund each fiscal year (as calculated as of the conclusion of such fiscal year) to be an amount not less than thirty-five percent (35%) of actual general fund expenditures during the applicable fiscal year. For purposes of this policy, the term "Available Firm Balance" means the total of all five GASB fund balance components described above, less the portion thereof which cannot be appropriated pursuant to the requirements of NCGS 159-8, held at the end of each fiscal year. The Available Fund Balance percentage provided for in this Section IV shall be calculated annually at the conclusion each fiscal year based on (i) the Available Fund Balance calculated as of the last day of the applicable fiscal year, and (ii) the total actual general fund expenditures for such fiscal year. For purposes of this calculation, actual general fund expenditures shall be total actual general fund expenditures (including debt service), excluding other financing sources and uses (e.g., capital leases and installment purchases).

If it is determined at the conclusion of any fiscal year that the Available Fund Balance is less the required level set forth in this policy, the Board of Commissioners shall adopt a plan with specific actions to be taken to restore the Available Fund Balance to the required level within thirty-six (36) months without severe hardship to the Town. If the restoration of the Available Fund Balance to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners will adopt an alternative restoration plan.

V ACCESSIBLE FUND BALANCE POLICY

The Town Board of Commissioners hereby establishes a policy requiring the "Accessible Fund Balance" for the general fund each fiscal year (as calculated as of the beginning of such fiscal year) to be an amount not less than thirty-five percent (35%) of budgeted general fund expenditures for the applicable fiscal year. For purposes of this policy, the term "Available Firm Balance" means sum of the final two GASB fund balance components described above, assigned fund balance and unassigned fund balance, held at the end of each fiscal year. The Accessible Fund Balance percentage provided for in this Section V shall be calculated annually at the beginning of each fiscal year based on (i) the Accessible

Fund Balance held on last day of the immediately fiscal year, and (ii) the total budgeted general fund expenditures for the applicable fiscal year. For purposes of this calculation, budgeted general fund expenditures shall be total budgeted general fund expenditures (including debt service), excluding other financing sources and uses (e.g., capital leases and installment purchases).

That portion of Accessible Fund Balance which is equal to or below the required thirty-five percent (35%) level may not be used except with the approval of the Board of Commissioners in dire financial circumstances (or in the case of one-time expenditures for long-term financial benefit, circumstances presenting significant financial opportunity to the Town) in order to:

- Provide resources to offset unforeseen revenue shortfalls in combination with expenditure reductions.
- To fund emergency expenditures in the event of a disaster.
- Provide for one-time expenditures that are for the long-term financial benefit of the Town (e.g., refinancing at lower interest rates and capital outlay for items that appreciate in value).

When adopting an appropriation of Accessible Fund Balance that reduces the Accessible Fund Balance for the general fund to be an amount less the required level set forth in this policy, the Board of Commissioners shall also adopt a plan with specific actions to be taken to restore the Accessible Fund Balance to the required level within thirty-six (36) months without severe hardship to the Town. If the restoration of the gene Accessible Fund Balance to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners will adopt an alternative restoration plan.

TOWN OF MONTREAT FUND BALANCE POLICY

The Local Government Commission of the NC Department of State Treasurer (LGC) recommends that local governments develop a fund balance policy to assist in cash flow management and help insure financial stability in the event of unforeseen circumstances. "Fund balance" is a term used in government accounting and is defined as the difference between a fund's assets and liabilities. Government Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, governs the descriptions used to report fund balance and breaks the total fund balance into five different components.

I. ADMINISTRATION AND IMPLEMENTATION

The Town Manager and Finance Officer are charged with carrying out this Fund Balance Policy. The Town Manager shall develop operating budgets that maintain the Available Fund Balance (as that term is defined below) in accordance with this policy. The Finance Officer shall maintain the Town's finances in compliance with this policy. The Town Manager and Finance Officer shall periodically review fund balances maintained by municipalities similar in size to the Town that provide similar services, as well as other resources provided by the LGC, to evaluate the adequacy of the Available Fund Balance percentage required in this policy.

III. AVAILABLE FUND BALANCE POLICY

The Town Board of Commissioners hereby establishes a policy requiring the "Available Fund Balance" for the general fund each fiscal year (as calculated as of the conclusion of such fiscal year) to be an amount not less than thirty-five percent (35%) of actual general fund expenditures during the applicable fiscal year. For purposes of this policy, the term "Available Firm Balance" means the total of all five GASB fund balance components, less the portion thereof which cannot be appropriated pursuant to the requirements of NCGS 159-8, held at the end of each fiscal year. The Available Fund Balance percentage shall be calculated annually at the conclusion each fiscal year based on (i) the Available Fund Balance for the applicable fiscal year, and (ii) the total actual general fund expenditures for such fiscal year. For purposes of this calculation, actual general fund expenditures shall be

total actual general fund expenditures (including debt service), excluding other financing sources and uses (e.g., capital leases and installment purchases).

If it is determined at the conclusion of any fiscal year that the Available Fund Balance is less the required level set forth in this policy, the Board of Commissioners shall adopt a plan with specific actions to be taken to restore the Available Fund Balance to the required level within thirty-six (36) months without severe hardship to the Town. If the restoration of the Available Fund Balance to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners will adopt an alternative restoration plan.

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PREFACE

This policy represents the general personnel program for the Town of Montreat relative to various procedures and regulations duly adopted by the Town Council. This policy replaces and supersedes all previously issued personnel-related directives and memoranda and with the adoption of this policy, all conflicting rules and regulations are rescinded.

If any part of this policy is found to be in conflict with federal and State law, or is otherwise held to be invalid, the remainder of this policy shall continue in full force and shall not be affected.

These provisions for personnel administration remain subject to review and change whenever necessary.

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy.

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Council. This policy is established under authority of the General Statutes of North Carolina.

Section 2. At Will Employment.

The Town of Montreat is an "at will" employer. Nothing in this policy creates an employment contract or term between the Town and its employees. No course of conduct or action by any person or group of persons, and nothing in these policies modifies the at-will nature of an employee's employment with the Town. Employees are not granted a property interest in Town employment.

All Town positions are subject to budget review and approval each year, and salary advancement is subject to annual funding and approval by the Council.

Section 3. Merit Principle.

The Town of Montreat endorses the following merit system principles in administering its personnel program

a) Applicants and employees shall not be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation, parental status, national origin, political affiliation, disability, age, military status, or other non-merit-based factors.

a) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, skill, and performance.

b) Employees may receive equitable pay and benefits and eligible employees may receive merit pay increases based on their performance, subject to the availability of funds.

c) Employees shall be protected against coercion for partisan political purposes.

d) All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range.

Section 4. Responsibilities in the Administration of the Personnel Program.

Responsibilities of the Town Council: The Town Council will adopt or provide for rules and regulations, resolutions or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of the North Carolina General Statutes, to be administered by the Town Manager.

Responsibilities of the Town Manager: The Town Manager shall be responsible to the Mayor and Town Council for the day-to-day administration and technical direction of the personnel program.

The Town Manager shall recommend policies and revisions to the personnel system to the Town Council for consideration, and shall:

a) maintain a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful; and recommend changes to the classification and pay plan;

b) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;

c) administer the benefits programs of the Town; investigate periodically the operation and effect of the personnel provisions of this policy and of the pay plan and recommend changes;

d) recommend changes to the personnel policies and practices; and

e) perform such other duties as may be assigned by the Town Manager not inconsistent with this policy.

Section 5. Application of Policies, Plan, Rules, and Regulations.

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Attorney, members of the Town Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee

violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 6. Departmental Rules and Regulations.

Given the variation of duties and operational requirements for each department of the Town, Department Heads are authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the final approval of the Council and shall not in any way conflict with the provisions of this Policy but shall be considered as a supplement to this Policy.

Section 7. Conflicts of Interest.

No employee shall derive any personal profit or gain, directly or indirectly, by reason of his or her employment with the Town in violation of North Carolina General Statutes. Employees shall refrain from using any confidential information for personal gain or aiding another's personal gain.

No employee shall accept, or agree to accept, directly or indirectly, any favor, gift, loan, money, fee, service or other item of value in any form whatsoever from any entity, organization or individual if it is intended to reward or influence or give the appearance of rewarding or influencing the employee with respect to his or her employment. This policy is not intended to prevent an employee from accepting an award or recognition for meritorious or outstanding achievement for community or government service. Employees must avoid any relationship or activity that might impair, or appear to impair, their ability to make objective and fair decisions when performing their jobs.

No employee shall furnish any information that was obtained as a result of employment with the Town to gain personal advantage for himself or herself or another. This must not be construed to limit, hinder, or prevent the divulgence or use of information in the performance of official duties, but will prohibit the use of or provision of information that would place the employee or the recipient in a vantage position over the general public, thereby constituting a violation of public trust. Employees shall, during both working and nonworking hours, act in a manner which will inspire trust in their integrity, impartiality and devotion to the best interests of the Town, their fellow employees, members of the public, vendors and contractors.

No person, firm or corporation, having or proposing to have any contractual relationship with, or rendering or proposing to render any services to the Town or any department, board, or agency thereof, may employ or have as an interested party, directly or indirectly, any employee of the Town, a Town Commissioner, or employee of any board, commission, or agency of the Town, when the approval, concurrence, decision, recommendation or advice of such employee or Town Commissioner may be sought, obtained, or required in connection with such contract or service.

Before engaging in any activity, transaction or relationship that might give rise to a conflict of interest, employees should consult the Town Manager. The violation of any provision of this procedure by an employee is sufficient cause for immediate termination of employment.

Section 8. Definitions.

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

a) **Full-time employee**. An employee who is in a budgeted position for which an average work week equals at least 40 hours, and continuous employment of at least 12 months, are required by the Town. All Town positions are subject to budget review and approval each year by the Town Council and all employees' work and conduct must meet Town standards.
b) **Part-time employee**. An employee who is in a budgeted position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months are required by the Town. Part-time employees working 1000 hours or more participate in the NC Local Government Employees' Retirement System and may earn pro-rated benefits.
c) **Regular employee.** An employee hired to a full or part-time position who has successfully completed the designated probationary period.
d) **Department Head**. Department Head shall mean the officially appointed head of any department, responsible for the administration of the department and supervision of employees within the department. May sometimes be referred to as Department Head.
e) **Probationary employee.** An employee hired to a full or part-time position who has not yet successfully completed the designated probationary period.
f) **Temporary employee.** An employee hired to a position for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous employment required by the Town is less than 12 months. Temporary employees may be hired and paid, subject to the availability of funds at a rate that is competitive with the local labor market upon approval of the Town Council.
g) **Trainee.** Employee status of an applicant hired (or employee promoted) who does not meet all the requirements for the position. During the duration of a trainee employment the employee is on probationary status.
h) **Volunteer employee.** An employee who is in an unpaid position.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

The position classification plan provides a complete inventory of all authorized positions in the Town service, and an accurate description and specification for each class of employment. The

plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

Section 2. Composition of the Position Classification Plan.

The classification plan shall consist of:

a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;

b) class titles descriptive of the work of the class;

c) written specifications for each class of positions; and

d) an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan.

The classification plan is to be used:

a) as a guide in recruiting and examining applicants for employment;

b) in determining lines of promotion and in developing employee training programs;

c) in determining salary to be paid for various types of work;

d) in determining personnel service items in departmental budgets; and

e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan.

The Town Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department Heads shall be responsible for bringing to the attention of the Town Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions or other factors which may affect the classification of any existing position.

When the Town Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the existing class specification shall be revised or reallocated to the appropriate class within the existing classification plan, or the position classification plan shall be amended establishing a new class to which the position may be allocated.

Section 5. Adoption of the Position Classification Plan

The position classification plan shall be adopted by the Town Council and shall be on file with the Town Clerk. Copies will be available to all Town employees for review upon request. New positions shall be established upon approval of the Town Council, after which the Town Manager shall either allocate the new position into the appropriate existing class or revise the position classification plan to establish a new class to which the new position may be allocated.

Section 6. Request for Reclassification.

When an employee and/or Department Head believes there have been significant changes in the job duties and responsibilities being performed on a regular basis and outside of the position's current classification, the Department Head may submit a written request to the Town Manager. The Town Manager will review the job duties and responsibilities, scope, complexity, independence, decision-making, general role, and impact of the position to determine if a different classification is appropriate.
Classification decisions are based solely on the position and not the incumbent in the position. However, should the position be assessed at a different classification, the incumbent must meet the minimum qualifications of that job classification before their position can be reclassified. The employee will be informed in writing on the Town Manager's decision. If the position reclassification request cannot be supported, the employee will remain in their current classification.

ARTICLE III. THE PAY PLAN

Section 1. Definition.

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges" adopted by the Town Council. The salary schedule consists of rates of pay for minimum or beginning, maximum, and may include intervening rates of pay. The pay plan establishes a salary range for all classes of positions and includes a designation of the standard hours in the work week for each position.

Section 2. Administration and Maintenance.

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town and other factors. To this end, the Town Manager shall from time to time make comparative studies of all factors affecting the levels of pay ranges and shall recommend to the Town Council such changes in pay ranges as appear to be warranted.

Periodically, the Town Manager shall recommend that individual salary ranges be reviewed and may recommend adjustment in salary as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Town Council. Normally this review shall occur as a part of the budget process.

Any salary advancement of employees is subject to annual funding and approval by the Town Manager increases may be limited by budget or by policy.

Section 3. Starting Salaries.

All persons employed in positions approved in the position classification plan shall be employed at the minimum salary for the classification in which they are employed. However, well-qualified applicants may be employed above the minimum of the established salary range upon recommendation of the
Department Head and with approval of the Town Manager. In addition, an applicant may be hired at a rate other than the minimum when there has been a demonstrated inability to recruit at the minimum rate.

Section 4. Trainee Designation and Provisions.

Applicants being considered for employment or Town employees who do not meet all the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head. "Trainee" salaries may be no more than two grades below the hiring rate salary established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

If the training is not successfully completed to the satisfaction of the Town, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 5. Probationary Pay Increases.

Upon successful completion of the probationary period, full-time and part-time employees hired, promoted, or reclassified into the hiring rate of the pay range shall normally receive a salary increase within the pay range. Employees hired or promoted above the minimum of the pay range for their classification are not normally eligible for a probationary increase.

The Department Head shall conduct performance evaluation conferences with employees prior to the completion of the probationary period and at least once each year thereafter.

Employees reporting to the Council shall be evaluated at least once a year in a performance evaluation conference with the Council.

The performance evaluation conferences shall consist of two-way discussions between employees and Department Head(s). The discussions should cover areas of accomplishment and performance strengths, areas for improvement, training needs, and goals for the upcoming year. The overall purpose of performance evaluation will be to improve the employees' performance. A summary of these performance evaluation conferences shall be documented in writing.

Section 7. Merit Pay and Merit Bonus.

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria concerning the quality of performance of the employee and is subject to the availability of funds. Pay increases may be percentages or flat dollar amounts within the range and may vary from employee to employee based on the variations in performance.
Employees may be considered for advancement within the established salary range o at the beginning of the new fiscal year based on the quality of their overall work. When an employee's work needs improvement, the Department Head is expected to refrain from recommending a merit increase.

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications.

Promotions. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

Demotions. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased, and may be no greater than the maximum of the new range.

Transfers. The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall normally receive a pay increase of approximately 5%. The employee shall receive a greater increase if necessary to advance the employee to the hiring step of the new range if probation has not been completed or to the probation completion step of the new pay range if probation has been completed. If the position is reclassified to a lower pay range, the

employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions.

When a class of positions is assigned to a higher salary range, employees in that class shall normally receive a pay increase. The employee shall the increase necessary to advance the employee to the hiring step of the new range if probation has not been completed or to the probation completion step of the new pay range if probation has been completed. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan.

The following principles shall govern the transition to a new salary plan:

1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes.
3) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Pay Day and Effective Date of Changes.

The Town's office hours are Monday through Friday from 8:00 a.m. to 5 p.m. The weekly work hours may vary for each department.

However, many services performed by Town employees are essential and some must be provided 24 hours each day, every day of the year. Therefore, Town employees may be required to work changing shifts and the number of hours per day may differ.

Employees will be paid on a biweekly basis, with work weeks established by the Town Manager. If a regular pay day falls on a holiday, checks will be issued on the workday that precedes the holiday.

Employees are encouraged to examine paychecks for correctness and payroll deductions will be explained if requested.

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period or at such specific date as may be provided by procedures approved by the Council.

Section 12. Hours of Work.

The Town Manager shall determine the standard workweek for employees. The length of the workweek is subject to change as dictated by necessity.

Employee Group	Payment Basis	Standard Work Week	Usual Work Period
Non-Exempt	Hourly	40 Hours in a 7-day Period	4-5 Days Per Week
Law Enforcement	Hourly	42-Hour Average	Rotating Shifts
Exempt	Salaried	40 Hours, More as Required	5 Days Per Week

Section 13. Rest Periods/Breaks.

Due to the variation in work schedules and needs among departments, the Town makes no attempt to define a uniform policy for rest periods or breaks. Department Heads may establish appropriate rest period practices which best serve the Town's interest within the work units under their supervision. Such practices shall be subject to review of the Council and shall be limited to one rest period or break in the morning and in the afternoon no longer than 15 minutes each.

All employees are allowed thirty (30) minutes or one hour for one (1) meal break during any normal working day. Breaks of at least 30 minutes taken for mealtimes will not be counted as part of any employee's normal work hours.

Section 14. Overtime Pay Provisions.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA).

The Town Manager, following FLSA regulations, shall determine which jobs are "non-exempt" and are, therefore, subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees in the general work force will be paid at a straight time rate for hours up to the FLSA established limit for their positions (usually 40 hours in a 7-day period). The Town may elect to pay employees overtime pay at one and one-half their regular rate of pay or award one- and one-half hours of compensatory time for each hour worked over the established limit for their positions in lieu of cash payments, in accordance ·with the provisions of the Fair Labor Standards Act

In determining eligibility for overtime in a work period, only hours actually worked shall be considered. Pay for time not worked on sick leave, annual leave, and compensatory leave will not be counted when determining these threshold hours for overtime eligibility. Whenever practical, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees. When time off within the work period cannot be granted, overtime worked will be accrued as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations.

Non-exempt employees in the general work force may not accrue more than 180 hours of compensation time. Should an employee earn more than 180 hours of compensation time for circumstances outside of their control, the Department Head will work with the employee to schedule time off as soon as reasonably practicable. Employees of the Montreat Police Department may accrue up to 480 hours.

Overtime work must be of an unusual, unscheduled, or emergency nature and must be approved by the employee's Department Head. Failure to obtain Department Heady approval in advance for overtime may result in disciplinary action. Additional work time must be recorded on an employee's time sheet in order to accrue overtime/compensatory time. The Department Head is responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with established policy. Hours are only accumulated after an employee works the maximum designated number of hours as established by the FLSA and set forth hereinabove.

The Town reserves the right to make cash payments for any overtime worked in situations that it deems appropriate. Examples of these situations include but are not limited to:

1. Employee staffing levels demonstrably below that required to perform what is determined to be an essential task;
2. Emergency situations;
3. Call-back situations as approved by the appropriate Department Heady personnel;
4. The availability of sufficient funds to pay financial responsibilities incurred by the town; and
5. Other situations that may be authorized by the Town Manager.

Cash payments at a rate of one and one-half the affected employee's regular rate of pay for overtime work shall be made only when authorized, in advance, by the Town Manager.

Employees in positions determined to be "exempt" from FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their Department Heads or the Town Manager where the convenience of the department allows.

Non-Exempt and Exempt Employees under FLSA:

Exempt Employees. Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) are paid on a salaried basis, and will not receive compensation – pay or time off -- for hours worked in excess of their normal work periods. In rare cases, such as under conditions designated by the Town Council as "Declared Emergency", exempt employees may be eligible for additional pay or time off for extra hours worked, as approved by the Town Council.

The Town intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the Town's Grievance procedure, as explained in this policy. If the deduction is found to be improper the Town will reimburse the employee for lost pay.

Non-exempt (Non-Law enforcement Officers): Employees will be compensated at a straight time rate for hours up to the FLSA established limit for their position—currently 40 hours in a 7-day period.

Hours worked beyond 40 in a 7-day period will be compensated by pay or compensatory time off at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA overtime purposes.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the same applicable 7-day work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid or time off granted in accordance with the FLSA at a time-and-a-half rate.

Non-Exempt Law Enforcement Officers: Employees will be compensated at a straight time rate for hours worked up to the FLSA established limit for their position – currently 171 hours in the designated 28-day cycle.

Hours worked beyond 171 in a 28-day period will be compensated by time-and-a-half pay. In determining eligibility for overtime in a work period, only hours worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA overtime purposes.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the same applicable 28-day work period for non-exempt employees, instead of paying overtime.

Section 15. Use of Compensatory Time

It is the responsibility of the Department Head to administer the compensatory time policy to ensure that employees do not accrue excessive levels of compensatory time. When possible, Department Heads shall provide time off, on an hour-for-hour basis, within the same pay period as the additional time expected to be worked. Employees should be allowed to use part or all of the accrued time within a reasonable period, unless doing so would unduly disrupt the department's operations.

Use of compensatory leave should be approved and taken in the same manner as annual leave. Compensatory leave must be exhausted before annual leave can be taken. Any unused accrued compensatory time balance will be paid out at termination of employment for non-exempt employees.

Section 16. Call-back.

The Town provides a continuous twenty-four hour a day, seven day a week service to its residents Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

Non-Exempt employees will be guaranteed a minimum compensation of two hours (pay or compensatory time) for being called back to work outside of normal working hours or for responding from home to a known emergency. "Call-back" provisions do not apply to previously scheduled overtime work.

Section 17. Payroll Deduction.

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Town Manager as to capability of payroll equipment and appropriateness of the deduction.

Section 18. Hourly Rate of Pay.

The hourly rate for employees will be determined by dividing the average number of hours worked scheduled per year into the annual salary for the position. Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The Town Manager will recommend hourly rates of pay for other part-time or temporary employees.

Section 18. Payment of Travel Expenses.

All participation in workshops, schools and meetings of more than a day must have prior approval of the Town Manager if any of the time and expense is to be paid by the Town. Expenses incurred as a part of the job for the Town will be reimbursed at the rate set by the IRS, and meals and lodging reimbursed at actual reasonable costs, or an established per diem. When anticipated that the per diem will be exceeded, the Council may elect to increase the rate before the travel is incurred.

All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers. The Town Manager may deny reimbursement of any questionable, unsupported or excessive expense claim submitted by the employee.

Section 19. Reimbursement of Training Expenses.

An employee who enters a job-related training program or educational course, with the prior approval of the Department Head and Council, shall be reimbursed for expenses such as tuition and books upon successful completion of the program. The Council may set annual limits for the amount of reimbursement. If the employee leaves employment with the Town within twenty-four months thereafter, the employee shall reimburse the Town for such expenses.

Section 20. Payment for Certifications.

Employees may be rewarded for new certifications of job-related education, as approved by the Town Manager. The range for compensation will be minimum of $50.00 and maximum of $250.00. The amount of the increase will be added into the employee's annual base salary.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy.

The Town of Montreat is an equal opportunity employer. We do not discriminate on the basis of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age, disability and genetic information, or any other status protected under federal, state, or local law.

Section 2. Implementation of Equal Employment Opportunity Policy.

All personnel responsible for recruitment and employment will continue to regularly review the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination. Notices regarding equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment.

Recruitment Sources. When position vacancies occur and are not filled from within, the Town shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants, to establish a diverse and qualified applicant pool. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments.

Job Advertisements. Jobs will be posted including position title, brief description of duties, minimum qualification requirements, salary range, instructions for applying, and the deadline, if any, for accepting applications. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant and may request to be notified of future vacancies that occur.

Application File. Applications and materials for applicants not selected shall be kept in an inactive file for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

Residency. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. Employment shall not necessarily be limited to residents of Montreat; however, in cases where residents and non-residents are equally qualified, the local resident may receive additional consideration.

Residency in the Town limits is not required; however, employees may be required to live within reasonable commuting and emergency response distance.

Selection. The Department Head shall screen all applications and identify a group of the best qualified candidates. The Town Manager or designee shall check references and make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related. All selection devices administered by the Town shall be valid measures of job performance.

Section 4. Probationary Period.

An employee newly hired, or a promoted employee shall serve a six-month probationary period. During the probationary period, Department Heads shall monitor an employee's performance and communicate with the employee concerning performance progress.

Probationary employees shall have a probationary review at the end of six months as well as before the end of twelve months. A summary of this discussion should be documented in the employee's personnel file. The Department Head shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed.

In unusual cases, for specific reasons approved by the Town Manager, the introductory period may be extended for a maximum of an additional six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension. However, sick and vacation leave may be used by the employee in this extended introductory period with prior approval of the Department Head. Disciplinary action, including demotion and dismissal without right of appeal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use the grievance procedures.

Upon successful completion of the probationary period, a full-time employee is eligible to be considered for a probationary pay increase as outlined in Article III, and to use annual leave as outlined in Article VII.

Section 5. Promotion.

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. Therefore, when a current employee applying for a vacant position is best suited, that applicant shall be considered for that position. The Town will balance three goals in the employment process:

1) the benefits to employees and the organization of promotion from within;
2) providing equal employment opportunity and a diversified workforce to the community; and
3) obtaining the best possible employee who will provide the most productivity in that position.

Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates. The Town reserves the right to publicly advertise any vacant position and to fill a position from outside the Town's workforce whenever the Town Manager determines it is in its best interests to do so.

Section 6. Demotion.

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

Section 7. Transfer.

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedules and Employee Attendance.

Department Heads shall establish work schedules, with the approval of the Town Manager, which meet the operational needs of the department in the most cost-effective manner possible.

Because Town services are essential and continuous, an employee shall avoid unnecessary absences and tardiness. Attendance and punctuality are important responsibilities of the employee which may influence his/her future eligibility for a merit pay increase for promotion.

The employee shall be required to call his Department Head in advance to advise him/her when illness prevents reporting to work, or when the employee expects to be late for work because of unusual and unavoidable circumstances.

If an employee is away from the job for 3 consecutive workdays without notice, it may be presumed that the employee has resigned and forfeited any claim to terminal pay for accumulated vacation.

Section 2. Political Activity.

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

a) Engage in any political or partisan activity while on duty;

b) Use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;

c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;

d) Coerce or compel contributions from another employee of the Town for political or partisan purposes;

e) Use Town-owned supplies, equipment or facilities to display political slogans, posters or stickers or for other political purposes.

f) No full or part-time employee shall be a candidate for nomination or election to office under the Town Charter. Temporary and volunteer employees (see definition is Article I, Section 8) are not covered under this exclusion and are eligible for nomination or election to such office.

Any violation of this section shall subject the employee to disciplinary action including dismissal.

Section 3. Outside Employment and Voluntary Service.

The work of the Town shall have precedence over other occupational interests of employees. Employees are cautioned not to engage in outside activities that are so exhaustive that the employee's physical and mental ability are consistently impaired to the extent that the employee's Town service is adversely affected. Conflicting outside employment is grounds for disciplinary action up to and including dismissal.

Off the Job Injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation benefits from that employer shall not be entitled to receive Town workers compensation benefits or accrued Town sick leave.

In cases where an off the job employment-related injury or illness results in temporary disability, an employee must either

a) request and obtain a leave of absence without pay;
b) request and use accrued vacation leave; or
c) be subject to termination by the Town due to lack of availability for work, following a three-month absence.

Volunteer Emergency Service: The Town encourages and shall permit employees to participate as members of a volunteer emergency service to the extent that the volunteer activities do not interfere with the employee's responsibilities in the Town service.

Section 4. Dual Employment.

A full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such work will not count toward the calculation of overtime for pay or time off.

Section 5. Employment of Relatives.

The Town prohibits the hiring and employment of immediate family in regular or temporary positions within the same work unit. "Immediate Family" is defined in Article VII, Section 12. The Town also prohibits the employment of any person into a regular or temporary position who is an immediate family member of individuals holding the following positions: Mayor, Town Council Member, Town Manager or Town Attorney. Otherwise, the Town may consider employing family members or related persons in the service of the Town, provided that such employment does not:

a) result in a relative supervising relative, or Council Members providing oversight to departments where relatives work;
b) result in a relative auditing the work of a relative;
c) create a conflict of interest with either relative and the Town; or
d) create the potential or perception of favoritism.

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town.

Section 6. Harassment Prohibited.

It is the Town's policy that all employees have a right to work in an environment free of harassment, verbal and physical, including sexual harassment.
Sexual harassment includes, but is not limited to:

Unwelcome sexual advances, requests for sexual acts or favors, or other verbal or physical conduct of a sexual nature;

1) Any statement or implication that an individual's submission to or rejection of such sexual conduct could be used as a condition of employment, or as the basis for any employment decision affecting such individual; and

2) Any conduct, whether physical or verbal, which has the purpose or effect of substantially interfering with an individual's work performance, creating an intimidating, hostile or offensive work environment or adversely affecting an individual's employment opportunities.

Sexual harassment includes, but is not limited to: slurs, jokes or degrading comments of a sexual nature; offensive sexual flirtation, unwanted sexual advances or propositions; abuse of a sexual nature; graphic verbal comments about an individual's body; sexual innuendo or suggestive comments, gestures, or leering; sexually oriented "kidding" or "teasing"; unwanted physical touching, such as patting or pinching another person's body; and the display in the workplace of sexually suggestive printed or visual materials, clothing, objects, cartoons, signs, calendars or pictures; demands for favors in exchange for favorable treatment or continued employment.

Reporting Procedures

All employees are responsible for helping to ensure that we prevent harassment, as well as take steps to stop harassment if it occurs. If you feel you have experienced, witnessed or become aware of sexual harassment, you should immediately report the incident(s) to your Department Head or to the Town Manager. Every complaint will be promptly and thoroughly investigated, including interviewing witnesses and participants. All efforts will be made to ensure the confidentiality of the complaint to the extent possible; however, information, including the identity of the individual lodging the complaint, may be divulged where necessary to fully investigate the matter or comply with applicable law. If an investigation leads the Town to conclude that sexual harassment or other inappropriate behavior has occurred, the Town will take steps to remedy the situation and make sure it does not continue. Such steps may include disciplinary action, up to and including termination, as the Town determines is appropriate.

Prohibition on Retaliation

There will be no retaliation against any employee who submits a good faith complaint, reports an incident witnessed, or participates in any way with the investigation of sexual harassment claim in compliance. Department Heads are prohibited from making any personnel decision or taking any adverse action against any employee because the employee submits a complaint or cooperates in good faith with an investigation of alleged conduct prohibited by this policy. If an employee believes he/she has been retaliated against for resisting or reporting sexual harassment or other prohibited harassment, he/she should report such retaliation in the same manner as set forth above. Any acts of retaliation will be considered a violation of this policy and corrective action will be taken, up to and including termination.

Section 7. Performance Evaluation.

Department Heads shall evaluate performance beginning with the employee's first day on the job. Through open communications with his or her Department Head, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of his or her job strengths and weaknesses.

A formal evaluation shall be completed for an employee prior to the completion of his or her introductory period and at least once each year thereafter. The Town's performance evaluation program provides a system for appraising the employee's work.
These performance evaluations shall be documented in writing and placed in the employee's personnel file.

Section 8. Safety.

Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment and a safety program for employees. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

The Town Manager and Department Heads share the responsibility for:

a) Providing safe work procedures and environments;
b) Informing and training employees in safe work habits and methods;
c) Insuring safe work procedures and detecting and correcting unsafe practices and conditions;
d) Investigating accidents and preparing accident reports.

Employees are responsible for:

a) developing and maintaining safe work habits and attend safety training;
b) promptly reporting all accidents and injuries;
c) pointing out what are believed to be dangerous practices and working conditions;
d) assisting with investigations or accidents;
e) wearing and using required protective equipment and taking proper care of safety equipment;
f) wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery;

Section 9. Substance Abuse Policy.

The Town upholds the obligation to its employees, citizens, affiliates, stakeholders and the public, to reasonably ensure safety in the workplace, comply with federal and state health and safety regulations for a Drug-Free Workplace, and prevent accidents.

Accordingly, the use, possession, sale, transfer, manufacture, purchase or being under the influence of illegal drugs or other intoxicants by employees at any time on the Town's premises or while involved in any business relating to the Town is prohibited. Employees must not report for duty or be on our property while under the influence of, or in the possession of, any intoxicating liquor, marijuana, narcotic or other illegal or illegally obtained substance.

Prescription drugs are allowed provided they are in the possession of and used only by the individual for whom they are prescribed, under the conditions prescribed by a treating physician, and they do not impair an employee's performance or endanger the employee and other individuals in the workplace.

Arrests/Convictions

The Town does not desire to intrude into the private lives of its employees but recognizes that employees' off-the-job involvement with drugs and/or alcohol may have an impact on the workplace. Therefore, the Town reserves the right to take appropriate disciplinary action if employees are arrested for or convicted of any crime involving illegal drug use, sale or distribution while on or off the Town's premises. The Town further reserves the right to take appropriate disciplinary action against any employee arrested for or convicted of driving under the influence or driving while impaired.

All employees who are arrested for, convicted of, plead guilty to or are sentenced for a crime involving drugs or alcohol are required to report the arrest, conviction, plea or sentence to the Town Manager within five (5) days. Failure to comply will result in automatic discharge.

Searches

When necessary, the Town may inspect and/or search all Town property, as well as any employee's personal property on the Town's premises for alcohol, controlled or illegal substances, or any other substances which impair job performance, with or without notice to the employee, and/or in the employee's absence. Refusal to submit to any such inspection or refusal to cooperate in any investigation may result in disciplinary action, up to and including termination. Any illegal or controlled substances discovered on Town premises will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

Testing Program

Employees may be subjected to off-site, third-party testing for drugs or alcohol under the following circumstances:

1) PRE-EMPLOYMENT. Applicants being considered for hire must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.

2) ACCIDENT OR INCIDENT. An employee may be tested if he/she is involved in an accident or incident which:
    a. Caused or could have caused personal injury to that employee, or any other person;
    b. Caused property damage; or
    c. The action or inaction by the employee contributed to an accident, with or without injury to any person, or property damage.

3) TESTING UPON REASONABLE SUSPICION. The Town has a reasonable suspicion that the employee is or has been under the influence of drugs or alcohol while on the job.

Employees who, as a result of being tested under this program, are identified as being substance abusers are subject to discharge. However, the Town will support employees with substance problems who voluntarily seek help prior to being tested and prior to being notified that testing may occur. Employees who voluntarily seek help may be referred to appropriate counseling and rehabilitation for their first occurrence only.

Employee compliance with this drug and alcohol-testing program is a condition of employment. Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document, or submit to a drug and alcohol-screening test will be grounds for termination of employment unless a compelling, satisfactory reason is provided.

Section 10. Use of Town Property and Equipment.

Town equipment, materials, tools and supplies shall not be available for personal use and are not to be removed from Town property except in the conduct of official Town business, unless approved by the Council. No employee shall purchase for personal use any equipment or supplies through Town purchase accounts.

Vehicles: An employee shall care for vehicles and equipment owned by the Town in a responsible manner. Vehicles are to be used for official Town business and personal use of Town vehicles and use of Town gasoline in privately owned vehicles is strictly prohibited. Employees on call may be authorized to take a vehicle to his/her residence, after approval has been granted by the Council.

Telephones, e-mail and Internet: Usage of Town telephones and computers for personal communications and Internet connections or e-mail for personal reasons should be brief. Employees should not access pornographic sites, or conduct nefarious activities while using Town equipment or use Town phones for personal long-distance calls.

Under North Carolina law e-mail sent or received by the Town is considered a public record and is subject to public inspection upon request.

Surrender of property: An employee who is terminated shall be required to return all items of equipment, including uniforms, owned by the Town. Return of such equipment in good condition may precede the issuance of an employee's final paycheck.

Section 11. Inclement Weather

The Town Manager may be called to determine if the offices will be open or closed. An employee unable to work due to inclement weather may use vacation or compensatory time. In emergency situations, designated Department Heads or employees may be required to report to work.

Section 12. General Service Regulations

The following provisions shall be known as general service regulations and shall apply to all employees:

a) Behavior and Common Courtesy: When contacting the public in any manner, especially on public business, Town employees shall do so in a courteous manner. Every employee shall at all times endeavor to conduct himself or herself in a manner that reflects credit upon his or her department and the Town of Montreat.

b) Disclosure of Confidential Information: No official or employee shall, without the approval of the Council, disclose confidential information concerning the property, government or affairs of the Town. Nor shall he or she under any circumstances use such information to advance the personal, financial or other private interests, for themselves or others.

c) Use of Intoxicants: No employee shall use intoxicating beverages or drugs of any kind while on duty, nor shall an employee report for duty while under the influence of an intoxicant or drug, unless such drug has been certified by a licensed physician as a drug that will not impair the work of the employee. Medications prescribed by a physician and certified by the physician not to impair the employee's ability to work may be taken during working hours as prescribed.

d) Off-duty conduct: Generally, the Town regards the off-duty activities of employees to be their own personal matter rather than that of the Town. However, certain types of off-duty activities represent potential concern and liability to the Town. For that reason, employees who engage in or are associated with illegal or immoral conduct, the nature of which adversely affects the public trust and confidence in the Town of Montreat, may be subject to dismissal or other disciplinary action.

Section 13. Media Contact

Montreat personnel shall make every effort to maintain good working relationships with the media. All requests for information shall be handled with respect and referred to the Town Manager. Any reply shall come from the Mayor, Town Manager, or the appropriate Department Head. Employees should ascertain that the requesting person is in fact representing a media organization. Employees should also be mindful of their personal liability for providing information on employees, former employees, Town policy, projects, or events.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility.

All full-time employees of the Town are eligible for employee benefits as provided for in this Article which are subject to change at the Town's discretion. Additional benefits may be approved by Council for specific employees as a condition of employment.

Section 2. Group Health and Hospitalization Insurance.

The Town provides group health and hospitalization insurance programs for full-time employees and may pay the cost of individual coverage. Part-time employees who are scheduled to work 20 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours. Employees may cover their qualifying family members by paying the full cost of that dependent coverage.

Section 3. Group Life Insurance.

The Town may elect to provide group life insurance for each employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Section 4. Retirement System.

Each employee in a regular position who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. The Town and the employee both contribute to the cost of retirement, as required by state law.

Section 5. Supplemental Retirement Benefits.

The Town provides contributions to the 401(k)-plan administered by the State of North Carolina equal to 5% of each active employee's gross pay. Employees may also contribute up to the limit prescribed by law.

Section 6. Retiree Health Insurance.

An employee who retires before age 65 under the provisions set forth under the NC Local Governmental Employees' Retirement System and has completed at least 15 years of continuous service with the Town of Montreat (or who retires under the LGERS on disability regardless of length of Town service) may continue the group health insurance plan coverage until age 65, or the age of Medicare coverage, whichever comes first, at the retiree rate as established annually by the Town Council. Dependent coverage would be paid for in full by the retiree. The employee must elect to continue the insurance at the time of retirement to receive the benefit.

Retired employees and their dependents are no longer eligible to receive this benefit or remain covered by the Town's group medical insurance coverage

1) upon reaching 65 years of age, or
2) upon becoming fully covered by Medicare, or
3) upon the discontinuance of the benefit by the Town and/or the insurance carrier.

Premium payments for said coverage will be paid directly to the Town for the insurance carrier. A retired employee is required to pay his or her portion of the monthly premium no later than the 10th day of the month for the following monthly coverage. Failure to pay the premium within the prescribed time period could result in the discontinuance of the benefit provided by the Town.

Section 7. Social Security.

The Town, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees. Social Security payments are deducted from paychecks and are matched by the Town.

Section 8. Workers' Compensation.

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate Department Heads at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act lies with the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Town Manager will assist the employee in filing the claim.

This provision also applies to reactions to smallpox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation.

Article VII covers the use of leave to supplement pay during periods of absence due to injury.

Section 9. Unemployment Compensation.

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Section 10. Uniforms and Clothing Allowance.

The Town shall provide uniforms for law enforcement personnel. Clothing or clothing allowances shall be provided to other employees as authorized by the Council. Upon separation from employment the employee will return uniforms to the Town.

Section 11. Longevity Pay.

Eligible employees will receive monetary awards based on the following schedule: years of service (beginning with the anniversary date of full-time employment) times $100.00 per year with a capped dollar amount of $1,500. (Example: 5 years x $100 = $500).

Longevity will be awarded to employees per employee evaluation approval. The benefit is to be awarded in November of each calendar year.

Section 12. Separation Allowance.

The Town provides a monthly separation allowance to retired law enforcement officers as required in the NC General Statutes.

<u>Non-law enforcement employees employed prior to July 1, 1998:</u>

Employees of the Town of Montreat who meet the following requirements shall receive, beginning on the last day of the month in which he or she retires, an annual separation

allowance equal to eighty five hundredths percent (0.85%) of the average final compensation as determined by the LGERS multiplied by the creditable years of services as determined by the LGERS. The resulting product equals the annual payment of the separation allowance. This amount divided by 12 is the amount that will be paid on the last day of each month. The requirements for this separation allowance are as follows:

The employee must have;

1) Completed thirty (30) or more years of creditable service as an employee of the Town of Montreat eligible to participate in LGERS at the time of retirement; or
2) Attained the age of fifty-five (55) and completed fifteen (15) or more years of creditable service as an employee of the Town of Montreat eligible to participate in LGERS at the time of retirement.
3) The employee must be employed prior to July 1, 1998.
4) The employee must not have attained sixty-two (62) years of age.
5) At least 50% of the employee creditable service must be is as a non-law enforcement employee. Employment in a law enforcement position with the Town of Montreat shall be included in determining the length of service for purposes of this policy, but no employee shall receive the Separation Allowance if he/she qualifies for the Special Separation Allowance for law enforcement officers or retires on disability.
6) Payment of this Separation Allowance shall cease at the death of the employee or on the last day of the month in which he/she attains sixty two (62) years of age, or on the last day of the month in which he/she receives social security, or upon the first day of employment of the employee by any governmental body. Should the special separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance shall be rescinded all at the same time.
7) The Separation Allowance does not replace any benefits to which a retired employee may be entitled from state, federal, or private retirement systems. It shall not be paid concurrently with or in addition to any compensation provided by the Special Separation Allowance for Law enforcement officers from any employer.

Section 13. ADA/Reasonable Accommodations.

It is the Town's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. A "disability" is defined as a physical or mental impairment (active, episodic or in remission) that substantially limits one or more of the individual's major life activities when present. The Town will provide reasonable accommodations for known disabilities of an applicant or employee, consistent with its legal obligations to do so, so long as such accommodations do not constitute an undue hardship to the Town. An employee with a disability who feels he or she needs an accommodation in order to continue performing the essential job function of his or her position should contact the Town Manager. As part of the Town's commitment to make reasonable accommodations, the Town

will then engage in a timely, good faith, interactive process with the disabled applicant or employee to determine effective reasonable accommodations (if any), which can be made in response to a request for accommodations.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy.

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately on a monthly basis.

Section 2. Holidays.

The following holidays have been designated for observance. The schedule of actual dates is issued on a calendar year basis. Written notice of the holiday schedule shall be provided annually.

Holiday	**Number of Days**
New Year's Day	1
Martin Luther King, Jr.'s Birthday	1
Good Friday	1
Memorial Day	1
Independence Day	1
Labor Day	1
Veterans Day	1
Thanksgiving	2
Christmas	2
Note: Employee who works a schedule that is less than 12 months shall be eligible for the holidays that occur during the months scheduled to work.	

The Town shall make efforts to accommodate an employee's request to be away from work for certain religious holiday observances; however, nothing shall obligate the Town to make accommodation if, in accommodating the request, it would result in undue hardship on the Town or its employees.

In addition to the specified holidays above, each employee may take one additional holiday of their choosing. Before such day is taken, the employee must obtain approval to be off on the day of their choosing.

Section 3. Holidays: Effect on Other Types of Leave.

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensation When Work is Required (or Regularly Scheduled Off for Shift Personnel)

Employees required to perform work on regularly scheduled holidays shall receive an equal number of hours off on a subsequent day as compensation for the holiday worked. If a holiday falls on a scheduled day off, the employee shall receive a day off based on their average work day at a later time.

Section 5. Vacation Leave.

Vacation leave is intended to be used for rest and relaxation, but may be used as the employee desires, and may be used for medical appointments and for absences due to adverse weather. Employees must request vacation leave from their respective Department Head. Unless the requested leave creates an undue hardship for the Town, the Department Head shall attempt to arrange the work schedule to accommodate the employee's request for vacation leave, but the final decision shall be that of the Department Head.

Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the Town. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the Town.

Section 6. Vacation Leave: Use by Probationary Employees.

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first 6 months of the probationary period unless approved in a pre-employment agreement. Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 7. Vacation Leave: Accrual Rate.

Each full-time employee of the Town shall earn vacation leave each payroll period at the rate shown in the schedule below:

Years of Service	**Amount of Leave Earned**
0- 2.99 years	11 days (88 hours) *
3 – 4.99 years	13 days (104 hours)
5 – 9.99 years	15 days (120 hours)
10 – 14.99 years	18 days (144 hours)
15 - 19.99 years	23 days (184 hours)
20 -24.99 years	23 days (184 hours)
25+ years	25 days (200 hours)

* Hours of vacation earned annually based on an 8-hour work day

Employees will be credited vacation leave for each full calendar month of work. For pay purposes, a vacation day is equal to a regular workday. Persons who are hired on or before the 15th of the month earn vacation time for that month; those hired after the 15th of the month begin earning vacation on the first of the following month.

Employees on probation earn vacation but may not use it until 6 months of the probation period is completed.

An employee continues to accumulate vacation while on vacation and sick leave. Employees must work for more than 15 days of the month in order to earn vacation for that month.

Section 8. Vacation Leave: Maximum Accumulation.

Vacation leave may be accumulated without any applicable maximum until June 30th of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days. Effective the last payroll in the fiscal year, any employee with more than 30 days of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to July 1 of the next calendar year. The excess amount removed shall be converted to sick leave and added to the employee's sick leave balance. Employees are not eligible to receive pay for excess vacation time not taken.

Section 9. Vacation Leave: Manner of Taking.

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Employees will normally be required to request earned vacation at least 1 week in advance of such leave; exceptions shall be authorized by the Department Head on an individually requested basis.

Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one-hour (1 hour) increments. All employees who earn at least 120 hours of vacation per year must take at least five workdays of accrued vacation per calendar year.

Section 10. Vacation Leave: Payment upon Separation.

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation, not to exceed 240 hours / 30 days (see Section 15 for pro-rating for employees working other than 40 hours per week), provided notice is given to the Department Head at least two weeks in advance of the effective date of resignation / four weeks' notice for Department Heads.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated vacation leave. The notice requirement may be waived by the Council when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation leave subject to the 240-hour maximum, except in cases of dismissal for detrimental personal conduct.
At the time of an employee's separation, any vacation leave owed to the Town shall be deducted from the employee's final paycheck.

Section 11. Vacation Leave: Payment upon Death.

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave.

Sick leave may be used by employees (probationary or regular employees) absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Employees serving their probationary period may be required to submit a doctor's certification in order to use accrued sick leave during the probationary period.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill. Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Section 13. Sick Leave: Accrual Rate and Accumulation.

Employees shall accrue sick leave at the rate of one (1) day per month. For pay purposes, a sick day is equal to a regular workday. Persons who are hired on or before the 15th of the month earn sick time for that month; those hired after the 15th of the month begin earning sick leave on the first of the following month.

An employee continues to accumulate sick leave while on vacation and sick leave. Employees must work for than 15 days of the month in order to earn sick leave for that month.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated for employees retiring or terminated due to reduction in force.

Reinstatement of Leave: Employees who resign in good standing or are dismissed from employment because of reduction in force and are reinstated within 3 years shall be credited with their previously accumulated sick leave. Employees who are dismissed from employment for reasons other than reduction in force or who are not reinstated within 3 years shall lose all sick leave credits.

Section 14. Medical Certification.

Prospective or current employees may be required to submit to a medical and/or psychological fitness for duty examination to determine if they are able to perform the duties and responsibilities of the job, especially essential tasks, if the Town deems desirable. The Town Manager may require certification stating the nature of the employee's illness, injury or disability and the employee's physical or emotional capacity to perform the duties for the job.

The employee's Department Head may require a physician's certificate stating the nature of the employee's or family member's illness and the employee's capacity to resume duties for each occasion on which an employee uses sick leave or whenever the Department Head observes a "pattern of absenteeism." The Town Manager shall be responsible for the application of this provision to the end that:

1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 15. Leave Pro-Rated.

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic work week shall be determined by the following formula:

1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned or divided by 26 shall be the number of hours of leave earned bi-weekly.

Section 16. Family and Medical Leave.

The Town provides Family and Medical Leave to its eligible employees in compliance with federal law, as stated in the Family & Medical Leave Act ("FMLA"). FMLA leave is unpaid, job-protected leave for certain qualifying events described below.

For the purpose of this FMLA policy, the following definitions are used:

- **Child.** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of mental or physical disability."

- **Next of Kin.** Nearest blood relative of the covered service member.

- **Parent.** A biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child.

- **Serious health condition.** A condition, illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

- **Spouse**. A husband or wife as defined or recognized under State law for purposes of marriage

Eligibility for FMLA

To qualify for FMLA leave under this policy, the employee must meet all of the following conditions:

1) The employee must have worked for the Town for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement stating the Town's intention to rehire the employee after the service break.

2) The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The 1,250 hours do not include time spent on paid or unpaid leave.

Qualification for FMLA

Under the FMLA, an eligible employee is entitled to up to 12 weeks of unpaid, job-secured leave for a qualifying reason. The Town will measure the leave on a rolling forward 12-month basis beginning on the first day an employee uses any FMLA leave. To qualify as FMLA leave under this policy, the leave must be for one of the reasons listed below:

1) The birth of a child and to care for that child.
2) The placement of a child for adoption or foster care and to care for the newly placed child.
3) To care for a spouse, child or parent with a serious health condition (described below).
4) The serious health condition of the employee that makes the employee unable to perform the functions of his or her position.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Town may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

For regular leave an employee is required to certify that the medical leave of absence is for a serious health condition for the employee or a family member. A written certification by a Physician or Practitioner must be provided. This information should be submitted at the time the leave is requested or within 15 calendar days. Failure to provide necessary certification may result in denial of the leave requested.

When the leave is foreseeable, the employee must submit written notice at least 30 calendar days prior to the requested leave to the Town Manager. When leave is unforeseeable, the employee must give notice as soon as practicable (within one or two working days of learning of the need for leave, except in extraordinary circumstances).

For birth, adoption or foster care, the employee must substitute available paid leave, excluding

sick, for the unpaid FMLA. When the paid leave is exhausted, the remainder of the 12 weeks of leave, if any, will be unpaid FMLA. For serious illnesses, the employee must substitute all available sick leave for the unpaid FMLA. When the sick leave is exhausted, the remainder of the 12 weeks of leave, if any, will be unpaid FMLA.

Military Leave

Under the FMLA, eligible employees who are the spouse, child, parent or next of kin of a covered service member of the U.S. armed forces (including the National Guard and Reserves) are entitled to a total of up to 26 weeks of unpaid, job-protected leave during a twelve (12) month period to care for a service member who is receiving medical treatment, is recuperating or is undergoing therapy for a serious injury or illness suffered while on active duty, that has rendered the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

For military caregiver leave under FMLA, an employee is required to provide certification of the serious health condition and need for Military Caregiver Leave, setting forth, at a minimum: a statement of medical facts regarding the servicemember's health condition; information sufficient to establish that the servicemember is in need of care; a description of the care to be provided to the servicemember and an estimate of the leave needed to provide the care; and the relationship of the employee to the servicemember. This information should be submitted at the time the leave is requested or within 15 calendar days Failure to provide necessary certification may result in denial of the leave requested.

Military caregiver leave may be taken only once and does not again become available with the start of a new FMLA year. An employee may not take more than a combined total of twenty-six work weeks of leave in any twelve (12) month period in which he or she chooses to use Military Caregiver Leave and other leave under FMLA.

Qualifying Exigency Leave

Under the FMLA, an employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of unpaid, job protected leave for reasons related to or affected by the family member's call-up or service. The "qualifying exigency" must be one of the following:

1) Due to short-notice deployments (seven or fewer days' notice);
2) To attend certain military events such as family support or assistance programs, or official military ceremonies;
3) To arrange for alternative childcare, provide childcare on an emergency, but not on a regular basis, or to attend meetings at a school or daycare concerning the servicemember's child;

4) To address certain financial and legal arrangements;
5) To attend counseling sessions from the call-up to active duty:
6) To spend time with service member who is on short-term rest and recuperation leave during a period of deployment (limited to five days for each instance); and
7) To attend post-deployment activities, such as arrival ceremonies and reintegration briefings, within 90 days of the end of the deployment.

For qualifying exigency leave, an employee is required to provide a copy of the service member's active-duty orders or other documentation supporting that the service member has been called to active duty in support of a contingency operation and the related dates of such duty. An employee will also be required to provide certification setting forth, at a minimum: the facts supporting the need for the leave; the approximate start date for the qualifying exigency; and the start and end dates for the leave. This information should be submitted at the time the leave is requested or within 15 calendar days. Failure to provide necessary certification may result in denial of the leave requested.

Requests for qualifying exigency leave should be submitted using the same procedures as a request for other leave under FMLA but should be submitted as soon as practically possible. Qualifying exigency leave, like leave for a serious health condition, is a FMLA-qualifying reason for which an eligible employee may use his or her entitlement for up to 12 weeks of FMLA leave each year. An eligible employee may take all 12 weeks of his or her FMLA leave entitlement as Qualifying Exigency Leave or the Employee may take a combination of 12 weeks of leave for both Qualifying Exigency Leave and regular FMLA Leave for a serious health condition.

Intermittent Leave

Under some circumstances, employees may take FMLA leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule. FMLA leave may be taken intermittently whenever medically necessary with the Town's consent. When intermittent leave is needed, the employee must try to schedule leave so as not to unduly disrupt the Town's operations.

Employee Benefits During FMLA Leave

During FMLA leave, group health benefits will continue at the same level and under the same conditions that will exist for covered employees actively working. While on FMLA leave, an employee is not entitled to accrue any additional leave time.

Upon Return from FMLA Leave

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. Before the employee returns to work from FMLA leave for the employee's own

serious health condition, the employee will be required to submit to the Town Manager, certification from the employee's health care provider stating that the employee is able to return to work.

Section 17. Leave Without Pay.

A full or part-time employee may be granted a leave of absence without pay for a period of up to 12 months by the Town Manager. The leave shall be used for reasons of personal disability after both sick leave, compensatory time, and vacation leave have been exhausted, sickness or disability of immediate family members, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.
The employee shall apply in writing to the Town Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the Department Head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

Section 18. Leave Without Pay: Retention and Continuation of Benefits.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Council and the regulations of the insurance carrier.

Insurance and payroll deductions are the responsibility of the employee and he/she must make those payments for continued coverage of that benefit, notwithstanding the Leave Without Pay status.

Section 19. Workers' Compensation Leave.

An employee absent from duty because of sickness or disability will be covered by the North Carolina Workers' Compensation Act. The employee is entitled to no compensation for the first seven days of disability unless the disability continues for more than 21 days, but may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period. After the disability has continued for more than 21 days, the employee is entitled to receive compensation for the first seven days.

If the disability continues beyond seven days, full-time and part-time employees may also elect to supplement workers' compensation payments after benefits begin with sick leave, vacation,

or compensatory time. However, the combination of leave supplement and workers' compensation payments may not exceed normal compensation. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans.

When workers' compensation leave extends long enough for the waiting period to be reimbursed, t employee may be required to return the reimbursement check to the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee. The Town may also decide to allow the employee to retain the reimbursement check, but not have leave time reinstated.

Section 20. Military Leave.

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted 10 workdays (*2* calendar weeks) per year or military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional 10 days of military leave during the same calendar year.

If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply.

Employees may use annual leave in hourly increments to supplement the military pay, but may be required to provide documentation of military pay, so that compensation from the Town and military sources does not exceed the amount normally paid by the Town.

While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 21. Reinstatement Following Military Service.

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

1) Applies for reinstatement within ninety days after the release from military service; and
2) Is able to perform the duties of the former position or similar position; or
3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service but is able to perform the duties of another position in the service of the Town. In this case the employee shall be

employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available

Section 22. Civil Leave.

A Town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. While on civil leave, benefits and leave shall accrue as though on regular duty.

The employee shall be compensated for his/her scheduled hours of work for each day on which the employee receives jury pay in the amount of the difference between the jury pay the regular straight-time hourly rate for the scheduled hours of work on such day, not exceeding 8 hours a day, for a maximum of 15 days.

The employee must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties.

Employees in court for their own case or appearing voluntarily as a witness in another person's case must use annual leave or leave without pay for their time in court.

Section 23. Funeral Leave.

Employees who have completed probation will be granted 3 days /24 hours of funeral leave (not charged to other leave balances) for the purpose of preparing for and attending a funeral or memorial service and for bereavement. Additional time off will be charged to leave-without-pay or, with the approval of the Department Head, to vacation time. Leave does not accumulate year to year.

No funeral leave will be credited unless the employee provides reasonable prior notice of the day(s) of intended absence and the time and date of intent to return to work.

Section 24. School Involvement Leave.

Full-time regular employees who are parents, guardians, or persons "standing in loco parentis" of a school-aged child shall be granted four hours per year of unpaid leave to attend or otherwise be involved at their child's school. However, the leave is subject to the following conditions:

a. The leave shall be at a mutually agreed upon time between the Department Head and the employee; and
b. A written request must be submitted to the Department Head for the leave at least 48

hours before the time desired for the leave.

For the purposes of this section, “school” means any public school, charter school, private school, preschool and child daycare facilities

Employees may be allowed to use accumulated vacation or compensatory time with approval of the Department Head

Section 25. Education Leave.

An employee of the Town of Montreat may be granted leave of absence for job training, certification, or other job-related training or education. Arrangements for expenses and compensation shall be made prior to the leave of absence on a case-by-case basis, as approved by the Department Head and Town Manager.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations.

All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 2. Resignation.

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate Department Head as far in advance as possible. In all instances, the minimum notice requirement is two weeks for employees and four weeks for Department Heads. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation leave unless the notice is waived by the Council. When appropriate, the Town Manager or Department Head shall conduct an exit interview.

Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Three consecutive days of absence without contacting the immediate Department Head may be considered a voluntary resignation.

Section 3. Reduction in Force.

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks’ notice of the anticipated action. No regular employee shall

be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 4. Disability.

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 5. Voluntary Retirement.

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death.

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 7. Dismissal.

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8. Reinstatement.

An employee who is separated because of reduction in force may be reinstated with the approval of the Town Manager. An employee who is reinstated within 3 years of separation shall be re-credited with his or her previously accrued sick leave.

An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

Section 9. Rehiring.

An employee who resigns while in good standing may be rehired with the approval of the Council, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance.

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or termination shall be conducted by the primary Department Head with the approval of the Town Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined.

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Town. Examples of unsatisfactory job performance include*, but are not limited to,* the following*:*

a) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
b) Physical or mental incapacitation to perform duties;
c) Discourteous treatment of the public or other employees;
d) Absence without approved leave;
e) Improper use of leave privileges;
f) Failure to report for duty at the assigned time and place;
g) Failure to complete work within time frames established in work plan or work standards;
h) Failure to follow the chain of command to address work-related issues.

Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance.

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the Department Head shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the Department Head.

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the Department Head before disciplinary action resulting in suspension, demotion, or dismissal is implemented. Where warnings are given, the Department Head should record the date of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set for corrective action. The warnings given should include notice to the employee that failure to make timely corrections may result in disciplinary action, including suspension, demotion, or dismissal from employment.

If the employee's performance continues to be unsatisfactory, then the Department Head should make a written recommendation to the Town Manager for disciplinary action such as suspension, demotion or dismissal. (See Section 6 of this chapter concerning pre-disciplinary conferences prior to disciplinary actions.)

Section 4. Disciplinary Action for Detrimental Personal Conduct

An employee may be placed on disciplinary suspension by the Manager, or, with the approval of the Council, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to

a) avoid undue disruption of work;

b) protect the safety of persons or property; or

c) for other serious reasons.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that undue or serious disruption of work of the Town has or may occur; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated. Examples of detrimental personal conduct include, *but are not limited to,* the following:

a) Fraud or theft;

b) Conviction of a felony or the entry of a plea of nolo contender thereto;

c) Falsification of records for personal profit, to grant special privileges, or to obtain employment;

d) Willful misuse of gross negligence in the handling of Town funds or personal use of equipment or supplies;

e) Willful or wanton acts that endangers or damages the lives and property of others;

f) Possession of unauthorized firearms or other lethal weapons on the job;

g) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty;

h) Request or acceptance of gifts in exchange for favors or influence;

i) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status;

j) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work responsibilities; or

k) Personal behavior which severely damages an employee's credibility with staff and/or citizen

Section 6. Types of Disciplinary Actions and Pre-disciplinary Conference.

Employees may be disciplined for unsatisfactory job performance or detrimental personal conduct. The decision on the recommended appropriate discipline is made by the Department Head, with approval of the Manager

Suspension: Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and shall be without pay.

Non-exempt employees: May be for short periods and should not generally exceed three days (24 hours) for nonexempt employees.

Exempt employees: In accordance with FLSA requirements to maintain exempt status, suspensions for exempt employees shall normally be for one full work week, especially if the suspension is for unsatisfactory job performance issues. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions: Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job.

Dismissal: Terminations are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the Town.

Pre-disciplinary Conference: Before suspensions of 3 days or more, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Manager or Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action. The Manager or Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 7. Non-Disciplinary Suspension.

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension, in the opinion of the Manager, would be in the

best interest of the Town, the Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases the Town may:

1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid leave for the duration of the suspension; or
2) Temporarily relieve the employee of all duties and responsibilities and place the employee on unpaid leave for the duration of the suspension; or
3) Temporarily assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. The employee shall also receive any back pay withheld while on unpaid leave.

If the employee is terminated following suspension without pay, the employee shall not be eligible for any pay from the date of suspension; however, all other benefits with the exception of accrued vacation leave and sick leave shall be maintained during the period of suspension.

The Town has a strong commitment to ensuring that our workplace remains safe. All employees, members of the public, vendors, and business associates must be treated with courtesy and respect at all times, and are expected to refrain from conduct that may be dangerous to others. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees determined to have committed such acts will be reported to the proper authorities and fully prosecuted.

Section 8. Workplace Violence.

To help employees understand and report behavior that could lead to violence, a list of prohibited conduct is provided below. However, this list of behaviors should not be considered all-inclusive, but merely a list of examples of conduct that is prohibited:

1. Intentionally causing physical injury to another person.
2. Making verbal or written threats of violence or intimidation.
3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
4. Disruptive behaviors such as yelling, using profanity, waving of arms and fists, verbally abusing others and refusing reasonable requests for identification.
5. Threatening behavior includes physical actions short of actual contact or injury (moving aggressively into another's personal space), general oral or written threats to people or

property ("You better watch your back." "I'll get you."), and implied threats ("You'll be sorry." "This isn't over.")

6. Violent behavior includes any physical assault, with or without weapons; behavior that a reasonable person would interpret as being potentially violent (throwing things, pounding one's fist on a desk or door, or destroying property), or specific threats to inflict physical harm.
7. Possession of a weapon while on Town property or while conducting Town business, with the exception of sworn law enforcement officers, when engaged in their official duties.
8. Intentionally damaging Town property or the property of a Town employee.
9. Committing acts motivated by, or related to, sexual harassment or domestic violence.
10. Workplace bullying.
11. Retaliatory actions against an individual who reported a workplace violence or bullying incident.

Any concerns about safety or potentially dangerous situations must be reported immediately to an employee's Department Head or to the Town Manager. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy.

It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from Department Heads or employees for exercising their rights under this policy. Department Heads or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

Section 2. Grievance Defined.

A grievance is a claim or complaint by a current or a former employee based upon an event or condition, under the control of the Town, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Section 3. Purposes of the Grievance Procedure.

1) The purposes of the grievance procedure include, but are not limited to:
2) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
3) Encouraging employees to express themselves about the conditions of work which affect them as employees;
4) Promoting better understanding of policies, practices, and procedures which affect employees;
5) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
6) Increasing the sense of responsibility exercised by Department Heads in dealing with their employees; and
7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure.

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent.

The last step initiated by an employee shall be considered to be the step at which the grievance is resolved.

Representation: An employee may be accompanied and assisted by a representative of his or her choosing in attempting to resolve the grievance.

Informal Resolution. Prior to the submission of a formal grievance, the employee and Department Head should meet to discuss the problem and seek to resolve it informally. In addition, the employee or Department Head may request mediation from local mediation services or other qualified parties to resolve the conflict. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant Town Department Head. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate Department Head in writing. The grievance must be presented within ten calendar days of the event or within

ten calendar days of learning of the event or condition. The Department Head shall respond to the grievance within ten calendar days after receipt of the grievance. The Department Head should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the Department Head is required to cooperate to the fullest extent possible.

The response from the Department Head for each step in the formal grievance process shall be in writing and signed by the Department Head. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Town Manager.

Step 2. If the grievance is not resolved to the satisfaction of the employee at the end of Step 1, the employee may appeal, in writing, to the Manager within ten calendar days after receipt of the response from Step 1. The Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.
Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the full Town Council within ten calendar days after receipt of the response from Step 1. The Council shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The Council's decision shall be the final decision.

Employees, Department Heads, or the Town Manager may used trained human resource, mediation, or facilitation professionals at any step in the process to help improve communication and understanding or to help resolve the conflict.

Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination.

When an employee, former employee, or applicant, believes that any employment action discriminates illegally -- i.e. is based on age, sex(including pregnancy, gender identity, and sexual orientation , race, color, national origin, religion, political affiliation, parental status, genetic information, or other non-merit based factor -- he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the full Town Council.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information.

In compliance with GS 160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

Section 2. Access to Confidential Records.

All information contained in a Town employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.

b) A licensed physician designated in writing by the employee may examine the employee's medical record.

c) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.

d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

e) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

f) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

g) The Town Council may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing

that information, the Council shall determine in writing that the release in essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

All matters dealing with personnel shall be routed to the Town Manager, who shall maintain a complete system of personnel files and records.

Section 3. Personnel Actions.

The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system.

Section 4. Remedies of Employees Objecting to Material in File.

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

Section 5. Penalties for Permitting Access to Confidential Records.

Section 160A-168 of the General Statues provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes

Section 6. Examining and/or Copying Confidential Material without Authorization.

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 7. Destruction of Records Regulated.

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the General Statutes.

TOWN OF MONTREAT
NORTH CAROLINA

TOWN OF MONTREAT
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Resolution 24-02-0001 Adopting Personnel Policy

PERSONNEL POLICY RESOLUTION OF THE TOWN OF MONTREAT

WHEREAS, the Mayor and Town Council of the Town of Montreat recognizes the importance of its municipal employees in meeting the service needs of Town residents; and

WHEREAS, it is the desire of the Mayor and Town Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and Town Council recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

WHEREAS, it is the desire of the Mayor and Town Council to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment consistent with the needs of the Town and the circumstances of the situation which may be faced from time to time;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MONTREAT that the following rules and regulations shall govern the appointment, pay, and employment conditions of the employees of the Town of Montreat, North Carolina.

BE IT FURTHER RESOLVED that copies shall be kept by the Town Manager and the Town Clerk, with the Town Clerk's copy being the official copy.

READ, APPROVED AND ADOPTED, this the 8th day of February, 2024.

_____
Tim Helms, Mayor

[SEAL]

_____
Savannah Parrish, Town Manager

ATTEST:

I hereby certify that this is a true and correct copy of this Resolution, duly adopted by the Town of Montreat on the 8th day of February, 2024, as it appears of record in the official minutes.

_____

Angie Murphy, Town Clerk