



## **TOWN OF MONTGOMERY 3 HOLES NATURE AREA ORDINANCE**



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### **TOWN OF MONTGOMERY 3 HOLES NATURE AREA ORDINANCE**

#### **SECTION I AUTHORITY**

Under the authority granted in 24 V.S.A. §1971, 24 V.S.A. § 2201, § 2291 and 23 V.S.A. §3510, the Town of Montgomery Selectboard hereby adopts the following Civil Ordinance regulating the use of the 3 Holes Nature Area.

#### **SECTION II PURPOSE**

This Civil Ordinance is adopted to promote public health, safety and , prevention of public nuisances by providing for the regulation of 3 Holes Nature Area, within the Town of Montgomery. It is intended to ensure open access to all and to preserve the beauty and safety of the area. The overall goal is for users of this area to leave no trace, and to respect the privileges of all to use this area.

#### **SECTION III DEFINITIONS**

The 3 Holes Nature Area is defined by that land identified by Property Tax I.D. Number 058.028Z, 39.1 acres more or less, and relevant Titles to same. A map is attached to this ordinance.

This 3 Holes Area also includes that portion of the Public Safety Building parking lot which serves as a trail head and the access trail to the Area.

## SECTION IV SPECIFIC PROVISIONS

The Town Of Montgomery provides no services or maintenance of the 3 Holes Nature Area.

It shall be a violation of this Ordinance to violate any of the following:

1. The 3 Holes Nature Area is open during daylight hours.
2. Access to the 3 Holes Nature Area is via a trail over both municipally and privately owned land. Users must stay on marked trails.
3. Carry out and bring all trash home with you. There is no trash pick up at the trail head. No trash is to be left behind.
4. Do not park so as to interfere with access of emergency vehicles at the nearby Public Safety Building. Violators will be towed at owner's expense.
5. The following items and activities are prohibited:
  - Alcoholic Beverages
  - Glass Containers
  - Littering
  - Camping
  - Cutting trees or branches
  - Fires
  - Hunting, Trapping, or Shooting
  - Possession of Firearms,
  - Motorized Vehicles
  - The playing of Radios, CD players, and Mp3 players unless used with ear phones
6. Pets must be under control and kept on a 6 foot leash. Owners must remove animal waste from the area.

## SECTION V PENALTIES

1. In accordance with 24 V.S.A. §1974a, any person who violates a provision of this Civil Ordinance shall be subject to a civil penalty of up to \$500 per violation. Each day the violation continues shall constitute a separate violation.
2. The constable of the Town of Montgomery and/or any person(s) duly appointed by the Selectboard shall have the authority to act as an Issuing Municipal Official, to issue and pursue a municipal complaint before the Judicial Bureau, or Franklin Superior Court. Note that the municipal bureau jurisdictional amount is \$500 for all violations, including continuing violations.
3. An Issuing Municipal Official shall have the authority to levy and collect for the benefit of the Town a Waiver Fee in lieu of a civil penalty from any person who declines to contest a municipal complaint and pay the Waiver Fee. Offenses shall be counted on a calendar year basis and Waiver Fees levied as follows:
  - (a) First Offense in any year \$100, waiver fee \$75
  - (b) Second Offense in any year \$200, waiver fee \$125
  - (c) All subsequent offenses in a year \$500, waiver fee \$275
4. Users of the 3 Holes Nature Area shall be liable, in addition to the fines and waiver fees set forth above, for all repair costs incurred for damage to Town and private property in a separate civil matter.

5. The Town of Montgomery disclaims all liability for the use of the 3 Holes Nature Area. Users assume all risk associated with the use of this area. The Town does not provide lifeguards. Nor does it maintain the river course. Diving from rocks is particularly dangerous. Parents should keep a watchful eye on children at all times.

#### SECTION VI AMENDMENTS

1. This Ordinance may be amended by a majority vote of the legislative body at any duly warned meeting, providing the subject appears on the agenda for that meeting.

2. Any amendments to this Ordinance shall take effect in accordance with 24 V.S.A. §1971.

#### SECTION VII APPEALS

1. Any person cited for a violation of this ordinance may contest the violation before the Judicial Bureau.

2. A judgment entered by the Judicial Bureau may be appealed under the provisions of 4 V.S.A. §1107.

#### SECTION VIII EFFECTIVE DATE

1. This Ordinance shall become effective sixty, (60), days after its adoption by the legislative body, unless a petition is filed under 24 V.S.A. §1973, in which case said statute shall govern the taking effect of this Ordinance.

2. A petition, as provided for in 24 V.S.A. §1973, for a vote on the question of disapproving this Ordinance, or amendments thereto, shall be signed by not less than five, (5), percent of the qualified voters in the Town of Montgomery, and presented to the legislative body or to the Town Clerk within forty four, (44), days following the date of adoption of the Ordinance. If such a petition is properly filed, the legislative body shall call a special meeting within sixty, (60), days from receipt of the petition, or include an article in the warning for the next annual town meeting if the annual town meeting falls within the sixty, (60), day period, to determine whether the voters will disapprove the Ordinance.

#### SECTION XI ENFORCEMENT

A violation of this 3 Holes Nature Area Civil Ordinance shall be a civil matter enforceable in the Judicial Bureau or in Superior Court in accordance with the provisions of 24 V.S.A. Ch. 59.

#### Section X NOTICE

1. This Ordinance shall be entered into the minutes of the Town records and shall be posted in at least five conspicuous places in Town.

2. The full text of this Ordinance, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published in a newspaper circulating in the municipality within fourteen, (14), days of its adoption.

3. A reference to a place within the municipality where the full text may be examined, shall be published along with a concise summary. When the text or concise summary of this Ordinance is published, the notice shall explain citizens' rights to petition for a vote on the Ordinance at an annual or special meeting as provided in 24 V.S.A. §1973, and the notice shall also contain the name, address and telephone number of a person with knowledge of, and who is available, to answer questions about this Ordinance.

#### SECTION XI SEVERABILITY

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

signed  
Board of Selectmen  
Town of Montgomery

Kenneth Cota, Chairman

Mark Brouillette

Gary Marrier

Tosca Smith

Scott Perry, Vice Chair/Clerk

Montgomery Town Clerk's Office received for record this \_\_\_\_\_  
day of \_\_\_\_\_, A.D., 2005 at \_\_\_\_\_ P.M.

Attest: \_\_\_\_\_

Renee Patterson,  
Town Clerk

Dates warned and discussed at Regular Selectboard meetings:

August 15, 2005

September 6, 2005

September 19, 2005

October 3, 2005

Date adopted by Selectboard: October 3, 2005

Date/Places Posted: October 4, 2005. Town Office, Center Post Office, Village Post Office, D&D Deli, Sylvester's Quick Stop, Sylvester's Market (Minimum of 5 places)

Date Published in County Courier: October 6, 2005 (NLT 14 days after adoption)

Last day for Petition: November 16, 2005 (NLT 44 days after adoption. If received, Special Meeting must be called within 60 days of receiving the petition, or can be an article at Town Meeting if Town Meeting is within the 60 days)

Effective Date: December 3, 2005 (NET 60 Days after adoption)