



TOWN OF BLACK MOUNTAIN TOWN COUNCIL

May 12, 2025

REGULAR SESSION AGENDA

Time: 6:00 PM

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

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 Conserve Resources; print only when necessary.

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1. CALL TO ORDER

- 1.A. Welcome
- 1.B. Pledge of Allegiance
- 1.C. Moment of Silence
- 1.D. Announcements
- 1.E. Ethics Statement

In accordance with the Code of Ethics adopted by the Council, all Council Members have a duty to conduct the affairs of the governing board in an open and public manner free of conflicts of interest. Is there any item on the agenda the outcome of which will have a direct, substantial, and readily identifiable financial impact for any Council Member, his or her family or close business associates? Does any Council Member have a financial interest in any public contract coming before this Council today? There being none, all Council

Members have a duty and obligation to vote.

2. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

2.A. Special Employee Recognitions

3. CITIZEN COMMENTS

Individuals wishing to address the Council are asked to sign in at the entrance to the board room, indicating the topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Council. **Comments by any one speaker shall be limited to three (3) minutes.** If the topic you wish to discuss pertains to a public hearing scheduled for this meeting, please reserve your comment for the applicable public hearing. Note: Council will not respond during the citizen comment period.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

4.A. Buncombe County Helene Recovery Updates

4.B. Public Works Report

5. CONSENT AGENDA

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

5.A. Adoption of Meeting Minutes: April 2, 2025, Budget Meeting; April 9, 2025, Budget Meeting; April 10, 2025, Agenda Work Session; April 14, 2025, Regular Meeting; April 23, 2025 Budget Meeting; May 1, 2025 Budget Meeting. -

Wesley Barker, Town Clerk

Motion: Motion to approve minutes as presented (or amended).

5.B. Extension of Tax Collection Agreement with Buncombe County - Tammy Holland, Finance Director

Motion: To approve extension of the interlocal tax collection agreement with Buncombe County.

5.C. Consideration of Budget Amendments - Tammy Holland, Finance Director

Motion: Approve budget amendments as presented.

5.D. 2025 Audit Contract and Audit Engagement Letter - Tammy Holland, Finance Director

Motion: Approve the fiscal year 2025 Contract to Audit Accounts from Gould Killian, CPA Group, P.A as presented

5.E. Monthly Tax Collector Report - Laurel Mabery, Accountant

Motion: I move to approve the tax collector report as presented.

5.F. Call for Public Hearing on Franchise Renewal with Enbridge (d.b.a. Dominion Energy) for Natural Gas Utilities - Wesley Barker, Town Clerk

Motion: Motion to call for a public hearing on the franchise renewal for natural gas utilities with Enbridge on Monday, June 9th, 2025 at 6:00 p.m. in the Council Chambers of Town Hall, 160 Midland Ave., Black Mountain, NC 28711.

6. PUBLIC HEARING

The chair will recognize individuals requesting to address the Council regarding the specific topic of the public hearing. **Public hearing comments by any one speaker shall be limited to ten (10) minutes.** The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each public hearing.

6.A. Public Hearing for Voluntary Annexation of Property Owned by Givens Highland Farms - Jennifer Tipton, Senior Admin

Motion: I move to approve the voluntary annexation of property known as 99999 Frances Avenue and 320 Tabernacle Road into the Town of Black Mountain town limits.

6.B. Public Hearing to Rezone 99999 Frances Avenue and 320 Tabernacle Road from R-1 to OI-6.

- Jennifer Tipton, Senior Admin

Motion: I move to approve the ordinance rezoning properties known as 99999 Frances Avenue and 320 Tabernacle Road from R-1 to OI-6 (office and institutional district).

6.C. Public Hearing to Amend Chapter 8, Sections 8.2.2., 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29, Phase II Stormwater Ordinance to align the Phase II Stormwater Ordinance with the Town's requirements from the NC Department of Environmental Quality for the Town's National Pollutant Discharge Elimination System (NPDES) permit and the Stormwater Management Plan (SWMP)

- Jennifer Tipton, Senior Admin

Motion: I move that we approve the proposed text amendments to Chapter 8, Sections 8.2.2, 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29, Phase II Stormwater Ordinance as presented and find that the proposed changes are consistent with current state regulations and find that the amendments promote the general welfare.

7. CITIZEN COMMENTS

Individuals wishing to address the Council are asked to sign in at the entrance to the board room, indicating the topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Council. **Comments by any one speaker shall be limited to three (3) minutes.** If the topic you wish to discuss pertains to a public hearing scheduled for this meeting,

please reserve your comment for the applicable public hearing. Note: Council will not respond during the citizen comment period.

8. UNFINISHED BUSINESS

9. NEW BUSINESS

9.A. Amended Hemphill Grant Project Ordinance and Budget Amendment - Tammy Holland, Finance Director

Motion: Motion to approve the amended Hemphill Grant Project Ordinance and budget amendment as presented.

9.B. Amended Hurricane Helene Grant Project Ordinance and Budget Amendment - Tammy Holland, Finance Director

Motion: Accept Amended Grant Project Ordinance and Budget Amendments as presented.

9.C. Consideration of a Fire Department Cost Recovery Program - John Coffey, Fire Chief

Motion: Motion to Approve the Ordinance Establishing and Implementing a Program to Charge Mitigation Rates for the Deployment of Emergency and Non-Emergency Services by the Fire Department for Services Provided/Rendered and to authorize the Town Manager, or their designee, to sign appropriate paperwork to enter into a service agreement with Fire Recovery USA, LLC.

10. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. CLOSED SESSION

13. ADJOURNMENT

[MEET_FOOT]



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: **MEETING DATE:** May 12, 2025

AGENDA SECTION: Communications from Staff, **DEPARTMENT:** Administration
Councils, Commissions &
Agencies

TITLE OF ITEM: Buncombe County Helene Recovery Updates

SUGGESTED MOTION(S):
N/a. Presentation only.

SUMMARY:

Buncombe County officials will present an update on county recovery efforts as well as the Envision Buncombe community input survey.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. Helene Recovery Plan_Municipal Elected Boards_4.23.25



Tropical Storm Helene

Recovery Planning



What is recovery planning, and why do it?

A long term recovery plan...

- Guides to help a community rebuild and recover after a major disaster
- Assesses impacts & needs
- Names what is important to accomplish for recovery
- Is project-specific
- Reflects community voice yet is tailored to organizational scope
- Aligns to existing plans where possible

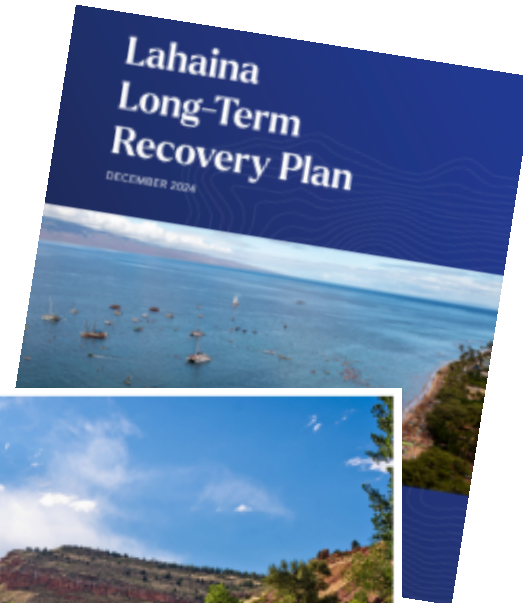
A good plan helps...

- Secure funding/resources from state & federal agencies
- Coordinate efforts between different organizations & government agencies
- Prioritize needs so the most critical issues get addressed first
- Support businesses and residents in rebuilding their lives
- Build back stronger to reduce damage from future disasters



Our local approach to recovery planning

- Aligned to state & federal recovery frameworks
- Informed by other communities recovering from disasters
- Created with support from FEMA Community Assistance
- Unified plan reflective of all jurisdictions within Buncombe County while retaining independent authorities for each to approve, establish, fund & carry out projects -
 - Buncombe County
 - City of Asheville
 - Town of Biltmore Forest
 - Town of Black Mountain
 - Town of Montreat
 - Town of Weaverville
 - Town of Woodfin



What to expect next

- Spring & Summer 2025:
 - Envision Buncombe Survey
 - Community engagement
 - Project development & evaluation by each jurisdiction
- Fall 2025
 - Review draft plans with elected officials
 - Community input on draft plans
 - Plan adoptions
 - Begin implementation of near-term recovery projects



ENVISION BUNCOMBE VISUALIZA BUNCOMBE

**Planning Recovery, Building Resilience,
Creating a Better Buncombe.**

*Planificando la Recuperación, Fortaleciendo la Resiliencia,
Construyendo un Buncombe Mejor.*



Envision Buncombe Survey

engage.buncombecounty.org/envisionbuncombe

Buncombe County Government is working to develop a community-driven plan for strategic recovery and resilience — and we need your voice to make it real. From post-disaster needs to recovery priorities to resiliency ideas, this survey is your chance to shape the future of Buncombe County.



Questions?

engage.buncombecounty.org/buncomberecovers

- Helene Recovery Resource Guide
- Updates on recovery activities

Helene Resource Center - 94 Coxe Ave, downtown Asheville
8:00 am-5:00 pm, Monday-Friday

- FEMA Individual Assistance
- State Disaster Case Management
- Small Business Administration (SBA) disaster loans
- Hazard Mitigation Grant Program
- Additional survivor-focused services and referrals



Envision Buncombe Survey

English



<https://publicinput.com/envisionbuncombesurvey>

Spanish

<https://publicinput.com/encuestaenvisionbuncombe>





TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jamey Matthews, Public Works Director
MEETING DATE: May 12, 2025

AGENDA SECTION: Communications from Staff, Councils, Commissions & Agencies
DEPARTMENT: Public Works

TITLE OF ITEM: Public Works Report

SUGGESTED MOTION(S):

N/a. Presentation only.

SUMMARY:

Public Works Director Jamey Matthews will provide a presentation from Public Works related to storm repairs and recovery.

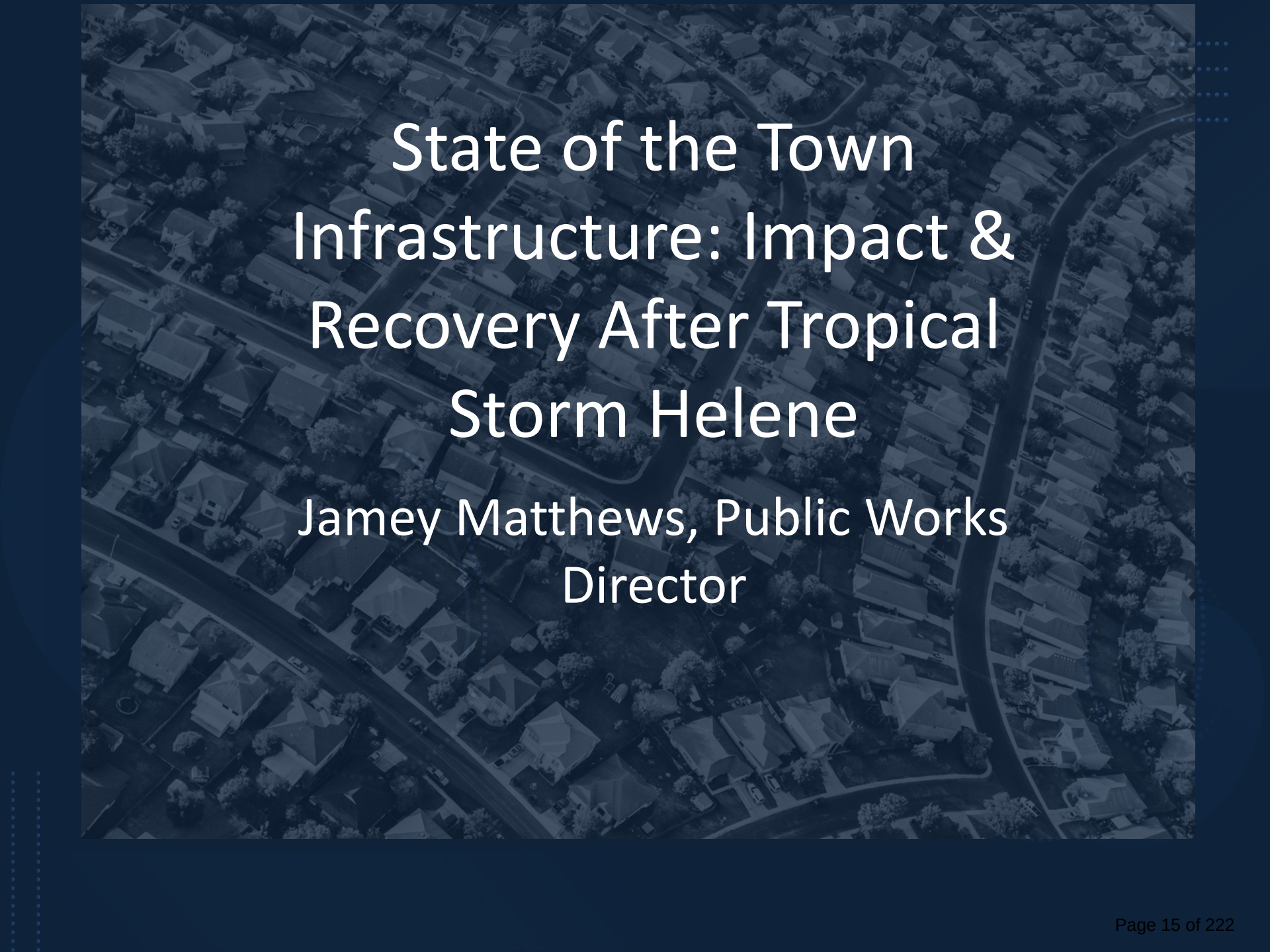
BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. Town_of_Black_Mountain_Water_System_Presentation

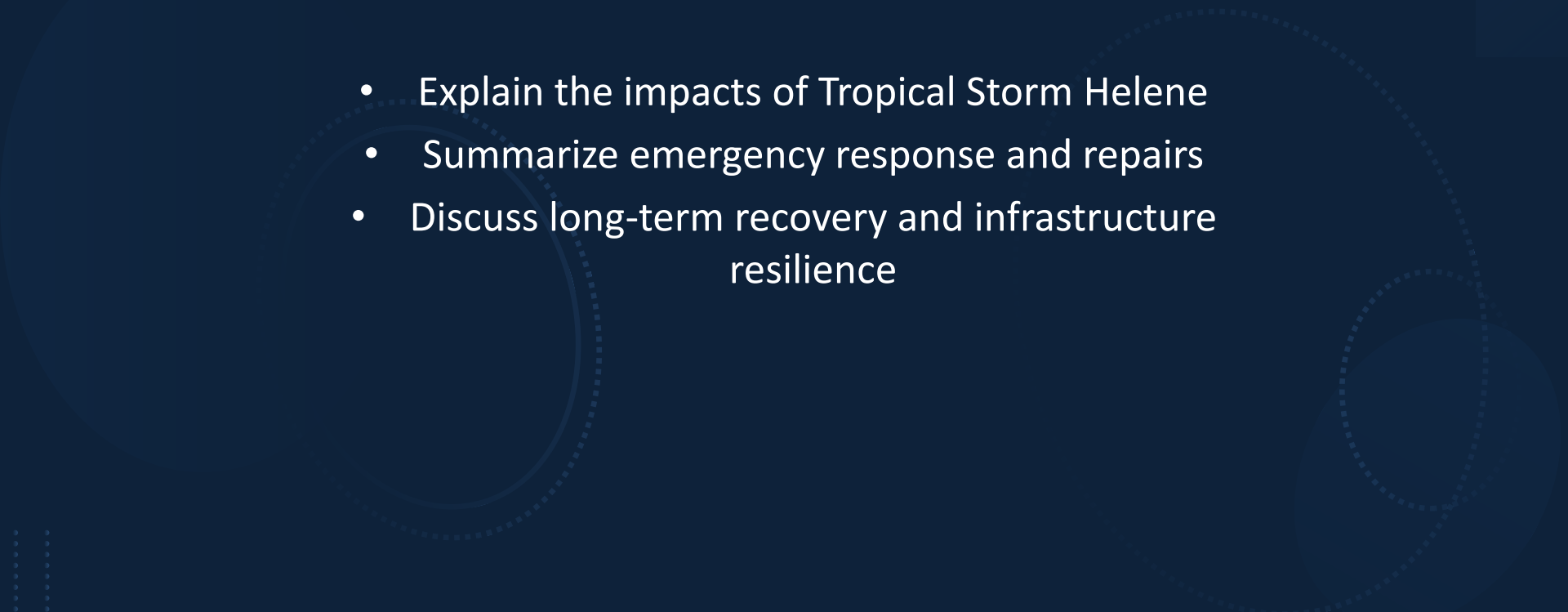


State of the Town Infrastructure: Impact & Recovery After Tropical Storm Helene

Jamey Matthews, Public Works
Director



Purpose of Today's Presentation

- Explain the impacts of Tropical Storm Helene
 - Summarize emergency response and repairs
 - Discuss long-term recovery and infrastructure resilience
- 

Pre-Storm System Performance

- Functioning within capacity
 - Producing 40% of town's water needs
 - Ongoing maintenance program
- Aging infrastructure in select locations flagged for replacement prior to storm, programmed into capital projects in the Water Fund
- No major known system-wide vulnerabilities

Tropical Storm Helene - Impact Timeline

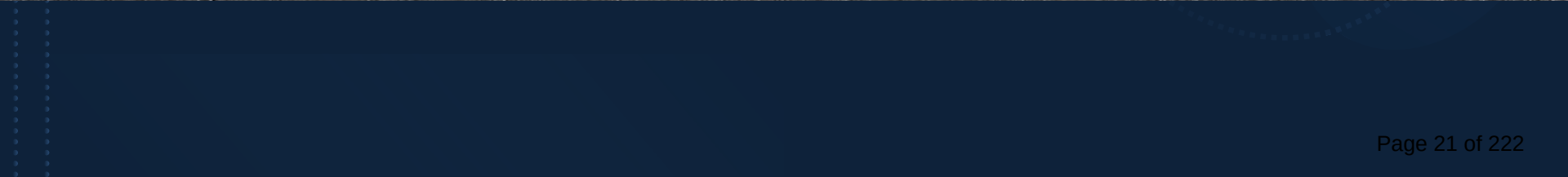
- September 27, 2024
 - Flash flooding and landslides
 - Power outages and surges
 - Widespread debris
- Infrastructure submerged or compromised
- Distribution charged with nonpotable water, more damage located
- Distribution system functioning on October 9th with non-potable water.

Immediate Impacts to the Water System

- Extensive erosion and washouts at key line locations
 - Exposed and broken water lines
- Damaged meter boxes and service connections
 - SCADA system failures
 - Power outages
- Pump stations and tanks offline
- Access to wells destroyed

Coping with Water Outage

- Existing relationships with Davis water proved a critical resource to Black Mountain residents.
- Town Council acted quickly to approve funding to secure safe water delivery.
- Black Mountain had water onsite before any jurisdiction in Buncombe County





Major Water System Repairs Completed

- Water Line Replacements
 - Ductile iron line replacements (6", 8", 10")
 - Cast iron line replacements
 - PVC line replacements (2", 4")
- Galvanized line replacements with PVC or poly
- Poly service line replacements ($\frac{3}{4}$ ")
 - Valve Replacements
 - Service Line Repairs
- Repair or backfill of exposed service lines
- Replacement of short segments of service lines
- Pump Station and SCADA Repairs
 - Debris removal from pumps
 - Piping repairs at pump station
 - Repair of SCADA system wiring
 - Flood-Related Repairs
 - Backfilling of exposed lines
- Stabilization of infrastructure impacted by flooding
- Temporary or Emergency Repairs
- Installation of repair bands on galvanized lines



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Major Road System Repairs Completed







Challenges Encountered

- Access to remote damage sites due to debris
- Delays in material procurement, parts availability
 - Limited equipment
 - No communication
- Interruption to Sanitation Scheduling
- Limited space to house employees







Recovery Partnerships

- Town staff coordinated emergency repairs
- Contractors and engineering teams mobilized
 - Collaboration with:
 - NC DEQ
 - FEMA & NCEM
 - NCWaterWarn (Mutual Aid)



Funding Repair Costs

- NC DEQ Loan used to pay mutual aid invoices totaling \$457,887.91.
 - Preparing documentation for FEMA to reimburse distribution repairs.
 - Reimbursement will allow repayment of the NC DEQ loan
 - Expenses for staff, materials and equipment will be reimbursed by FEMA.
 - Total small project request approximately \$####.

What We've Learned

- Faster access to emergency funding needed
- Importance of documentation and asset mapping
- Build redundancy and elevation into vulnerable assets
 - Public education is key
 - Misinformation/Disinformation

THE 5 ELEMENTS OF DEFAMATION

IDENTITY	The statement must be about you.
PUBLICATION	A third party must have seen, read, or heard the statement.
NEGLIGENCE	The statement was made negligently or with reckless disregard for the truth.
FALSITY	The statement in question must be false.
HARM	You must prove that the statement caused material or reputational harm.

WWW.RMWARNERLAW.COM

WHAT IS ACTUAL MALICE?

In defamation law,

actual malice is when someone makes a statement with knowledge of falsity or reckless disregard for the truth.

WWW.RMWARNERLAW.COM

WHO HAS TO PROVE ACTUAL MALICE?

Public Officials	Politicians, high-ranking governmental figures, and government employees.
All-Purpose Public Figures	Celebrities, professional athletes, and heads of major corporations.
Limited-Purpose Public Figures	Individuals who are distinguished in a specific field or controversy.



Richard Hudson Author

🏆 All-star contributor
[Michael Small](#), most of the board members believe what ever he says for some reason. You are correct that the garbage trucks and golf course equipment are enough to summarily fire him, but they obviously don't care what his decision making costs the taxpayer. He also is a known liar. He told a whopper to the mayor this week, trying to keep information that is public from the leader of our town.

14h Like Reply



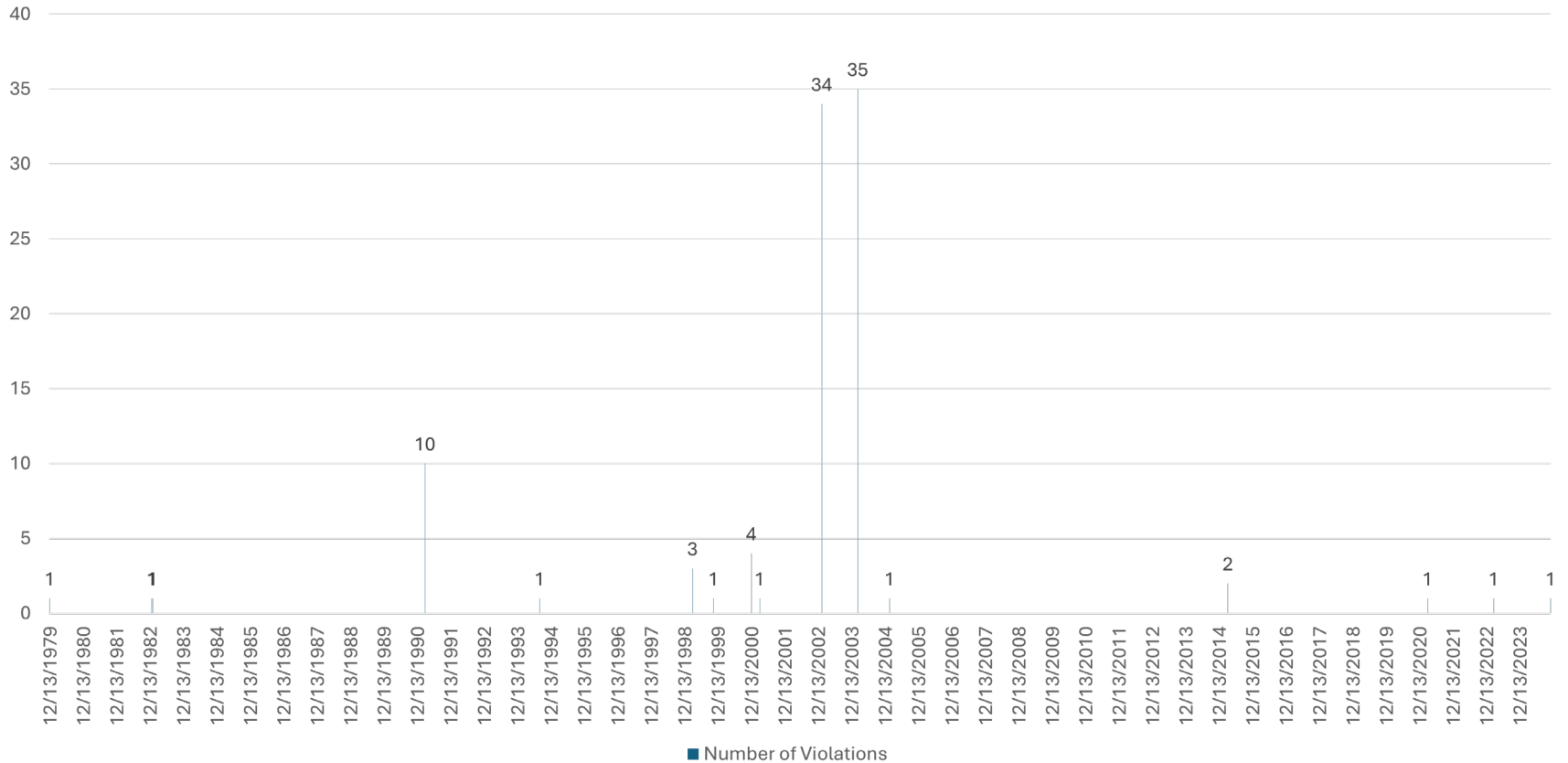
Julie Williams

Shippey 🏆 All-star contributor
[Richard Hudson](#) then why does the mayor not do something about it? Why does he not get on FB and say so himself? Why is it you are always the one who seems to speak for him. We all know who you are hinting about when you don't outright say it.

12h Like Reply

Write a reply

Number of Violations



Looking Ahead

- Continue recovery and rebuild smarter
- Prioritize infrastructure resilience in CIP
 - Explore regional emergency backup
 - Inform and involve residents



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Wesley Barker, Town Clerk **MEETING DATE:** May 12, 2025
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration
TITLE OF ITEM: Adoption of Meeting Minutes: April 2, 2025, Budget Meeting; April 9, 2025, Budget Meeting; April 10, 2025, Agenda Work Session; April 14, 2025, Regular Meeting; April 23, 2025 Budget Meeting; May 1, 2025 Budget Meeting.

SUGGESTED MOTION(S):

Motion to approve minutes as presented (or amended).

SUMMARY:

Adoption of Meeting Minutes:

- April 2, 2025, Budget Meeting
- April 9, 2025, Budget Meeting
- April 10, 2025, Agenda Work Session
- April 14, 2025, Regular Meeting
- April 23, 2025 Budget Meeting
- May 1, 2025 Budget Meeting

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. April 2, 2025 Budget Workshop Minutes (FY 25-26)
2. April 9, 2025 Budget Workshop Minutes (FY 25-26)
3. April 10, 2025 Agenda Workshop Minutes

4. April 14, 2025 Regular Meeting Minutes
5. April 23, 2025 Budget Workshop Minutes (FY 25-26)
6. May 1, 2025 Budget Workshop Minutes (FY 25-26)



BLACK MOUNTAIN TOWN COUNCIL MINUTES

April 2, 2025 | Special Called Meeting | Time: 8:30 A.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held a meeting on Wednesday April 2, 2025, at 8:30 a.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711. The purpose of this meeting was to hold a FY 2025-26 Budget Work Session.

Mayor C. Michael Sobol called the meeting to order at 8:32 a.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, and Council Member Ryan Stone.

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager; Wesley Barker, Town Clerk; Tammy Holland, Finance Director; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director; Steve Parker, Police Chief. Several other staff members were also present.

FY 2025-26 Budget Work Session.

This budget work session is part of a series of upcoming meetings with presentations from town departments with budget requests. The budget requests of the following departments were reviewed during this work session:

• Governing Body	• Information Technology
• Administration	• Finance
• Human Resources	• Police Department
• Public Works Admin	• Sanitation/Streets

Noteworthy items discussed during these presentations are included below:

Governing Body/Administration/Human Resources

- Town Manager Josh Harrold stated this proposed budget has a 3% cost of living increase added in for town employee salaries, across all departments.
- Due to the expenses that occurred because of Hurricane Helene to town facilities & properties, Mr. Harrold stated this budget year would be tough and there would not be a lot of fund balance to balance the budget with.
- A request to hire a Public Information Officer (PIO) position was presented for salaries (\$54,000).
- \$50,000 added for a facilities study for the public safety building (Police/Fire).
- A \$39,900 increase in the Town's liability insurance due to claims to replace equipment.

Police Department

- The total increase in this budget is estimated to be over \$118,000, but a lot of these items were out of their control, such as increases to insurance rates (\$45,000) and retirement contributions (\$31,900).
- Hiring of a school resource officer (SRO) is proposed and the SRO would be split between Black Mountain Elementary & Primary Schools. Total salary for this position would be \$52,000. \$36,700 of the salary would be reimbursed by Buncombe County (by way of the State of NC), and the town would be responsible for the remainder, plus benefits.
- One new police vehicle is requested at an estimated \$60,000.

Public Works- Admin/Sanitation/Streets & Highways

- Public Works Director Jamey Matthews stated decreases would be found throughout the various Public Works-related budgets due to the temporary facilities the department would be working out of, and not their large building, which was damaged by the hurricane (e.g. electricity, water/sewer, gas, refuse disposal and building maintenance fees/equipment).
- Increase in disposal fees, electric fees (streetlights),

Town Manager Josh Harrold stated the next budget meeting would continue the expense requests for departments and would begin revenue discussions. The next FY 2024-25 budget workshop will be held on Wednesday, April 9, 2025 at 8:30 a.m. at Town Hall.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 9:50 a.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

April 9, 2025 | Special Called Meeting | Time: 8:30 A.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held a meeting on Wednesday April 9, 2025, at 8:30 a.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711. The purpose of this meeting was to hold a FY 2025-26 Budget Work Session.

Mayor C. Michael Sobol called the meeting to order at 8:30 a.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, and Council Member Ryan Stone.

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager; Wesley Barker, Town Clerk; Tammy Holland, Finance Director; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director; Steve Parker, Police Chief; Angela Reece, Project & Facilities Manager. Several other staff members were also present.

FY 2025-26 Budget Work Session.

This budget work session continued presentations from town departments with budget overviews and requests. The budget requests of the following departments were reviewed during this work session:

• Fire Department	• Golf Course
• Recreation & Parks	• Planning & Development

Noteworthy items discussed during these presentations are included below:

Fire Department

- Fire Chief John Coffey presented the proposed Fire Department budget to Council. Overall, this department's budget would be down more than \$58,000, even with continuing inflation impacts.
- Chief Coffey requests an additional firefighter position, who will also serve as a training officer and community outreach coordinator. With this position, and accounting for the proposed 3% cost-of-living adjustment for all employees, the salaries line item for the Fire Department has an increase of \$247,000.
- A \$10,000 increase in the training line item for employees and Chief Coffey stressed the importance of these training opportunities.
- A new line item for emergency disaster preparedness requests a \$20,000 one-time expense. This is to get the Town set up with materials that we would need to have a better functioning emergency operations center in the event of another emergency. Discussions on radio

communications also took place.

Recreation & Parks

- Recreation & Parks Director Josh Henderson stated his department budget would be about \$24,000 less than the previous year due in part to decreases in program and event expenses, such as Park Rhythms concert series, which would be going from eight to four shows this year, and moving to Town Square from Veterans Park.
- The Lakeview budget is proposed to be down approximately \$35,350 due to an eliminated part-time position in salaries and decrease in utilities expense since the building is only being used by a few staff currently (e.g. no rentals for events or senior activities taking place).
- The Black Mountain pool budget has decreased by \$13,000, but there is a \$15,000 increase in specialty operating supplies to fully fund the swim team, so they do not have to fundraise to be fully operational, as other town athletic programs aren't asked to fundraise.

Golf Course

- Golf Operations Manager Brent Miller presented the budget for the golf course, which was down more than \$256,000. This was due to a staff vacancy, which affected salaries and benefits line items, utility expenses and overall course maintenance expenses, as the golf course would not be fully operational over the next FY.
- Mr. Miller stated the golf course is going to operate nine holes, which are the back nine holes and will hopefully be open by summer. Additionally, it is proposed that a driving range be created on the front nine holes, until they can be reopened. This driving range would help with revenue. Additionally, the golf carts have been paid for, which leaves more than a \$57,000 decrease in debt principal for the golf course.

Planning & Development Services

- Assistant Town Manager Jessica Trotman presented the proposed Planning & Development budget. Overall, the budget was down over \$68,000, but there is a proposed \$92,000 increase in the salaries line item to accommodate the incoming Planning Director and move the part-time building inspector to a full-time position. Employee benefit costs would also see a slight increase due to these shifts. If made full-time, that building inspector position would also work in code enforcement, and the Town would not need to contract with Alliance Code Enforcement to perform code enforcement needs, thus saving money on the contract service line item.

The next FY 2024-25 budget workshop will be held on Wednesday, April 23, 2025 at 8:00 a.m. at Town Hall.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 9:55 a.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

April 10, 2025 | Agenda Workshop Meeting | Time: 5:00 P.M.

Black Mountain Town Hall | 160 Midland Ave., Black Mountain, NC 28711

The Black Mountain Town Council held their agenda workshop meeting on Thursday, April 10, 2025, at 5:00 p.m. at Black Mountain Town Hall, 160 Midland Ave., Black Mountain, NC 28711.

Mayor C. Michael Sobol called the meeting to order at 5:04 p.m. with the following members in attendance: Mayor C. Michael Sobol, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, Council Member Ryan Stone. *Vice Mayor Archie Pertiller was absent.*

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager; Tammy Holland, Finance Director; Shannon Hensley, Human Resources Specialist; Jennifer Tipton, Senior Admin.

April 14, 2025 Council Meeting Agenda Review: Town Manager Josh Harrold reviewed the proposed agenda for the upcoming April 14, 2025 Regular Town Council meeting.

Mayor Sobol proposed adding a resolution about the proposed Swannanoa Valley TDA to the agenda. The Council was at a consensus not to add to agenda but would be willing to talk about at the regular meeting.

The agenda item entitled “Resolution Celebrating and recognizing 2025 Earth & Arbor Day” was proposed to be moved from the Consent Agenda to the “Proclamations, Awards, Recognitions, Special Resolutions” section of the agenda.

A brief discussion took place regarding the call for public hearing for amendments to the Phase II Stormwater Ordinance. The amendments would require less stringent inspections but are still more stringent than state requirements.

With no additional comments, Council Member Alice Berry made a motion to adopt the agenda as presented, with the amendments proposed. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 5:15 p.m.

C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

April 14, 2025 | Regular Session Meeting | Time: 6:00 PM

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

Black Mountain Town Council held their regular monthly meeting on Monday, April 14, 2025, at 6:00 PM in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

1. CALL TO ORDER

Mayor C. Michael Sobol called the April 14, 2025 Town Council meeting to order at 6:00 p.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King. Council Member Ryan Stone was absent from the meeting.

The following staff members were present: Jessica Trotman, Assistant Town Manager; Wesley Barker, Town Clerk; Jamey Matthews, Public Works Director; Recreation & Parks Director, Josh Henderson; Project & Facilities Manager Angela Reece.

Mayor Sobol led those in attendance in the pledge of allegiance and a moment of silence, then read the ethics statement. Mayor Sobol then read aloud a statement he wrote regarding the Town's Public Safety building.

2. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

Resolution Proclaiming "No Mow May" within the Town of Black Mountain. Town Council Member Alice Berry made a motion to approve the resolution as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

RESOLUTION PROCLAMING NO MOW MAY WITHIN THE TOWN OF BLACK MOUNTAIN

Resolution # R-25-15

WHEREAS, insects, especially bees, serve a significant and critical role as pollinators of plants including agricultural plants; and

WHEREAS, the ideal pollinator-friendly habitat is one comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in succession throughout the growing season; and

WHEREAS, the formative period for establishment of pollinators and other insect species and the many songbirds and other urban wildlife species that depend upon them occurs in late spring and early summer as they emerge from dormancy and require flowering plants as crucial

foraging habitat; and,

WHEREAS, “No Mow May” is a community science initiative that encourages property owners to limit lawn mowing practices during the month of May to provide early season foraging resources for pollinators that emerge in the spring, especially in urban landscapes when few floral resources are available; and

WHEREAS, the Town of Black Mountain Town Council would like to encourage interested residents to increase pollinator-friendly habitat by encouraging pollinator-friendly lawn-care practices on their own properties for the month of May during this formative period; and

NOW, THEREFORE BE IT RESOLVED, that the Town of Black Mountain Town Council recognizes “**No Mow May**” to actively promote and educate the community about the critical period of pollinator emergence, generation of crucial pollinator-supporting habitat and early spring foraging opportunities. The Town Council also encourages citizens to visit www.beecityusa.org/no-mow-may to learn more.

BE IT FURTHER RESOLVED, that the Town of Black Mountain Town Council directs staff not to issue correction notices for long grass and weed violations for the month of May, permitting all residents to voluntarily delay lawn care until June. This would allow pollinator species to emerge and early flowering grasses and forbs to establish, which may result in groundcover exceeding established ordinance height restrictions of 12 inches, as referenced in the Town Code of Ordinances, Chapter 20, Article V, Section 20-203.

Adopted by the Town Council of the Town of Black Mountain, this 14th day of April 2025.

Resolution of Affirmation by the Town Of Black Mountain to Freedom of Speech as Protected by the United States Constitution and Recommitment to Public Library Services by the Town of Black Mountain and Buncombe County.

Town Council Member Pam King made a motion to approve the resolution as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

**RESOLUTION AFFIRMATION BY THE TOWN OF BLACK MOUNTAIN TO
FREEDOM OF SPEECH AS PROTECTED BY THE UNITED STATES
CONSTITUTION AND RECOMMITMENT TO PUBLIC LIBRARY SERVICES BY
THE TOWN OF BLACK MOUNTAIN AND BUNCOMBE COUNTY
*Resolution # R-25-16***

WHEREAS, libraries inspire lifelong learning, offering a space where individuals can explore new ideas; connecting people with knowledge, technology, and resources while fostering civic engagement, and providing safe and welcoming space for all;

WHEREAS, libraries serve as vibrant community hubs, providing free and equitable access to

books, digital tools, wi-fi, and innovative programming for all ages;

WHEREAS, libraries protect the right to read, think, and explore without censorship, standing as champions of intellectual freedom and free expression;

WHEREAS, the Town of Black Mountain has a long history of appreciating the value of public libraries, the first one being established here in 1922;

WHEREAS, the Black Mountain-Tyson Public Library has enjoyed a long and fruitful partnership with the Buncombe County Libraries in its current location, made possible in large part because of the service of local volunteers serving on the Town of Black Mountain Library Board overseeing building maintenance needs, including retired board members Judd Dougherty, Ron Sneed, and Carol Tyson having served a cumulative total of over 100 years;

WHEREAS, Buncombe County through its Department of Library Services maintains the highest professional standards for library management at twelve locations ensuring safe, enriching environments for patrons and meeting all requirements put forth by the State Library of North Carolina;

WHEREAS, the Friends of the Black Mountain Library are relentless advocates for quality library services;

WHEREAS, recent changes by the federal government include the elimination of the Institute of Museum and Library Services (IMLS), one outcome being the reduction or elimination of funding for state library services like NC Cardinal, our state library consortium for shared library services; another outcome being the stated intention to influence the nature of materials available in public libraries;

WHEREAS, the Friends of the Black Mountain Library work tirelessly to raise funds necessary to supplement the resources available in the Black Mountain-Tyson Public Library, including periodical subscriptions, large print book purchases, furniture, children's programming, cultural programming, and more;

WHEREAS, the long history of municipal, county, and volunteer partnership has been fruitful, cost efficient, and rewarding for our community;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Black Mountain in honor of National Library Week, April 6-12, 2025, that the Town reaffirms our commitment to our partnership with Buncombe County in making sure quality library services are available for our area residents and visitors.

READ, APPROVED, AND ADOPTED by the Town Council of the Town of Black Mountain, North Carolina, upon a motion by Council Member Pam King on the 14th day of April 2025.

A Resolution Of The Town Council Proclaiming That All Are Welcome In Our Community, Regardless Of Sexual Orientation, Gender, Ethnicity, Religion, National Origin, Race, Ability, Socioeconomic Status, Age Or Any Other Characteristic, And That All Individuals Will Be Treated Equally In The Name Of The Law.

Town Council Member Doug Hay made a motion to approve the resolution as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

A RESOLUTION OF THE TOWN COUNCIL OF BLACK MOUNTAIN, NORTH CAROLINA PROCLAIMING THAT ALL ARE WELCOME IN OUR COMMUNITY, REGARDLESS OF SEXUAL ORIENTATION, GENDER, ETHNICITY, RELIGION, NATIONAL ORIGIN, RACE, ABILITY, SOCIOECONOMIC STATUS, AGE OR ANY OTHER CHARACTERISTIC, AND THAT ALL INDIVIDUALS WILL BE TREATED EQUALLY IN THE NAME OF THE LAW.

Resolution # R-25-18

WHEREAS, the Town of Black Mountain recognizes the inherent dignity and worth of every individual; and

WHEREAS, our community thrives on its diversity and the rich contributions of residents and visitors from every background; and

WHEREAS, it is the commitment of this Town to ensure that all persons — regardless of sexual orientation, gender, ethnicity, religion, national origin, race, ability, socioeconomic statuses, age, or any other distinguishing characteristic — are afforded the full protection of the law and the warmth of our community; and

WHEREAS, inclusivity and equality are foundational principles that strengthen our community, promote civic harmony, and reflect the best of our shared values; and

WHEREAS, by enacting this resolution, the Town of Black Mountain publicly reaffirms its dedication to treating every individual with fairness, respect, and justice.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF BLACK MOUNTAIN, NORTH CAROLINA:

1. **Affirmation of Inclusivity:** That the Town of Black Mountain formally proclaims that all persons, regardless of sexual orientation, gender, ethnicity, religion, national origin, race, ability, socioeconomic status, age, or any other distinguishing characteristic, are welcome and valued as integral members of our community.
2. **Equal Treatment Under the Law:** That every individual in our Town shall be treated equally in the eyes of the law and afforded all rights, privileges, and protections without discrimination.

3. **Community Commitment:** That the Town Council will continue to uphold and promote policies and practices that foster inclusivity, respect, and equal opportunity for all residents and visitors.
4. **Public Declaration:** That this resolution serves as a public affirmation of our commitment to creating an environment where diversity is celebrated, and every person is guaranteed dignity, respect, and equal access to community resources.

PASSED, ADOPTED, AND ENACTED by the Town Council of Black Mountain, North Carolina on this 14th day of April, 2025.

Resolution Celebrating and Recognizing 2025 Earth and Arbor Day

Town Council Member Alice Berry made a motion to approve the resolution as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

RESOLUTION FOR EARTH DAY & ARBOR DAY CELEBRATION WEEK 2025 ***Resolution # R-25-17***

WHEREAS, Earth Day is observed annually to promote awareness of Earth’s life-sustaining ecosystem, and the importance of preserving its integrity, through education and wise stewardship; and

WHEREAS, April 22, 2025 marks the 55th Earth Day annual celebration, and EARTHDAY.ORG has selected “OUR POWER, OUR PLANET” inviting everyone around the globe to unite behind renewable energy, and to triple the global generation of clean electricity by 2030; and

WHEREAS, the Town of Black Mountain practices energy conservation measures at Town facilities including LED lighting, waste reduction and recycling initiatives that includes recycling containers placed in parks, facilities and offices; providing recycling pickup services to Town residents, composting at the community garden; and

WHEREAS, the Town of Black Mountain practices water conservation and sustainability strategies that includes, but aren’t limited to, river clean-ups, streambank restoration/live staking, stormwater management areas, rainwater catch basins and organic growing practices at the Community Garden, pollinator garden bed installations, removal of invasive species in parks, and use of biodegradable and eco-friendly chemicals at facilities; and

WHEREAS, Arbor Day was first observed with the planting of more than a million trees in Nebraska in 1972 and is an annual day of observance, (observed on April 25, 2025), and individuals are encouraged to plant trees and educate themselves on the vast benefits trees provide; and

WHEREAS, the Town’s Stormwater Department hosts several events annually to raise

educational awareness about trees and tree planting by providing free native trees to residents and educational information thus furthering the goals of Tree City USA and the Arbor Day Foundation.

NOW, THEREFORE BE IT RESOLVED, by the Town of Black Mountain Town Council that April 20-27, 2025 be recognized as “**EARTH & ARBOR WEEK**” in Black Mountain and we encourage all citizens, businesses and institutions to celebrate Earth & Arbor Day, and invite citizens of Black Mountain & the Swannanoa Valley to attend the tree giveaway and memorial planting event on Saturday, April 26, 2025 at 10 a.m. at 304 Black Mountain Ave. in conjunction with Arbor Day.

ADOPTED this the 14th day of April 2025.

3. CITIZEN COMMENTS

Allen Greene, 335 Lookout Terrace Ave., spoke on storm debris that has not yet been picked up.

Alice McClary, 88 Mountain View Rd., spoke on the status of River Walk Dog Park following clean-up measures. She spoke about whether a committee could be formed of citizens and town staff to look into the park improvement needs.

Bob Burke, 16 Magnolia Rd., with Operation Blessing, a disaster relief organization, who is in the community to help restore homes following the hurricane, spoke on an individual named Felipe Gonzalez, who was tasked with work with the coalition in this area and was here on a FEMA parole from Canada. Bob stated Felipe has been asked to go back to Canada, along with other FEMA parole grantees, and wanted to make the Council aware of this.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

4A. Helene Storm Recovery Update. Assistant Town Manager Jessica Trotman provided the monthly Hurricane Helene Storm Recovery Update to the Town Council. *Presentation included at the end of these minutes as Appendix A.*

4B. Water System Update. Assistant Town Manager Jessica Trotman provided the Town Council with a short update on the Town's water system and current compliance with state standards. She stated the Town is currently compliant with no violations. *Presentation included at the end of these minutes as Appendix B.*

5. CONSENT AGENDA

5A. Adoption of Meeting Minutes from February 24, 2025 Joint Meeting with Planning Board, March 1, 2025 Council Retreat, March 6, 2025 Agenda Work Session and March 10, 2025 Regular Meeting. *Vice Mayor Archie Pertiller made a motion to approve the meeting minutes as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

5B. Monthly Tax Collector Report. *Vice Mayor Archie Pertiller made a motion to approve the tax collector report as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

CURRENT YEAR TAX -ADVALOREM TAXES

Billed	\$ 5,324,247.84
Collected	\$ 5,191,075.31
Adjustments and Releases	\$ 4,933.18
Outstanding real and personal property taxes	<u>\$ 138,105.71</u>

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR

97.41%

5C. Call for Public Hearing to Amend Chapter 8, Sections 8.2.2, 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29, Phase II Stormwater Ordinance to align the Phase II Stormwater Ordinance with the Town's requirements from the NC Department of Environmental Quality for the Town's National Pollutant Discharge Elimination System (NPDES) permit and the Stormwater Management Plan (SWMP). *Vice Mayor Archie Pertiller made a motion to approve the call for public hearing as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

5D. Call for Public Hearing for Voluntary Annexation of Property Owned by Givens Highland Farms. *Vice Mayor Archie Pertiller made a motion to approve the call for public hearing as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

5E. Call for Public Hearing to Rezone 99999 Frances Avenue and 320 Tabernacle Road from R-1 to OI-6. *Vice Mayor Archie Pertiller made a motion to approve the call for public hearing as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

5F. Cragmont Park Renovation Capital Project Closure. *Vice Mayor Archie Pertiller made a motion to approve the Cragmont Park Renovation Capital Project Closure. A vote of 4-0 in favor. Council Member Ryan Stone was absent.*

6. PUBLIC HEARING - *None.*

7. CITIZEN COMMENTS - *None.*

8. UNFINISHED BUSINESS

8A. EPA's Lead & Copper Service Line Inventory Project Update. Assistant Town Manager Jessica Trotman provided an update on the EPA Lead and Copper Service Line Inventory Project.

9. NEW BUSINESS

9A. Historic Preservation Commission Member Removal. Since January 2024, the Historic Preservation Commission has met eleven times (two meetings were canceled due to Tropical Storm Helene). Of those eleven meetings, Leigh Vidrine attended two (April and May 2024) and missed all the other meetings, with no notification to staff. The Town's Advisory Board, Commission and Committee Member Handbook states under Section 6: Attendance Policy, *"In order for a board or commission to be effective and efficient, and to accomplish its purpose, its membership must be actively involved and attentive to the business of the body, therefore, the Town Council may dismiss any member who misses three consecutive regular meetings or one-half of the meetings held in a single six-month period without good cause..."*. Further, the handbook states *"Members of boards and commissions may be removed from said body for failure to meet attendance requirements."*

Due to these absences and following the Town's advisory board handbook on attendance policies, the commission chair and staff liaison recommend that Ms. Vidrine be removed from the Historic Preservation Commission, and that the remainder of her term be advertised for a replacement. ***With no discussion, Council Member Doug Hay made a motion to remove Leigh Vidrine from the Historic Preservation Commission due to excessive absences from meetings. A vote of 4-0 in favor. Council Member Ryan Stone was absent.***

9B. Black Mountain Radio Sailing Club - Permanent Signage at Lake Tomahawk Park. The Black Mountain Radio Sailing Club was established in 2005 and uses Lake Tomahawk to sail the small boats, which always draws curiosity of visitors. Franz Halaschek-Wiener, President of the Sailing Club, spoke to the Council and stated the Club is seeking to install permanent signage at Lake Tomahawk Park near the boating launch pad. The purpose of a permanent sign is to provide information about the radio sailing sport and club, which is an enjoyable hobby for all ages. The proposed sign frame dimensions will be the same as the storybook stations around the lake, 34"x26", and approximately 4 feet high, affixed to a 4"x4" anchored post. The framework consists of pressure-treated lumber, or composite lumber, 2"x4". The sign panel will be 32"x24" and consist of aluminum composite metal or poly metal, and the text will be printed directly on the highly durable panel. The cost will be carried by the club, no financial assistance from the town is requested. The sign will be placed between the observation deck and the tree next to the launchpad, facing towards the walkway. The club will take responsibility for ongoing maintenance, cost and repairs of the station, except for maintenance the Town currently handles.

Council Member Pam King made a motion to approve the signage proposal from the Black Mountain Radio Sailing Club as presented. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

9C. Amended Project Ordinance and Budget Amendments for Hurricane Helene. The Town of Black Mountain periodically establishes grant project ordinances for endeavors that involve funding in whole or in part by revenues received from the Federal and/or State Government. The operating or capital expenditure defined within the grant contract may require a time frame greater than one fiscal year to complete. Consequently, the adoption of a grant project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding each fiscal year.

This agenda item is to consider the approval of the amendment of Hurricane Helene Grant Project Ordinance and budget amendment. The Town of Black Mountain is included in FEMA-4827-DR, North Carolina Disaster Declaration. The Following items are recognized within the amended project ordinance and budget amendments.

- Donation received from Black Mountain Presbyterian Church for Veteran's Park Repairs in the amount of \$67,000.
- Additional Revenues received from NCLM Vehicles and Equipment Insurance Claims equaling \$38,732.07.
- Adjustment reallocating budgeted expense accounts.

Council Member Doug Hay made a motion to approve the amended grant project ordinance and budget amendment as presented and recommended. A vote of 4-0 in favor. Council Member Ryan Stone was absent.

**Town of Black Mountain Hurricane Helene
Amended Grant Project Ordinance
Ordinance No. 0-25-05**

BE IT ORDAINED by the Town Board of the Town of Black Mountain, North Carolina, that, pursuant to the Local Government Budget and Fiscal Control a local government may, in its discretion, authorize and budget for a capital project or a grant project in a project ordinance adopted pursuant to G.S. 159-13.2. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year; the following Grant Project Ordinance 0-24-15, originally adopted October 7, 2024, is hereby amended and adopted as follows:

Section 1. Project Defined

The Town of Black Mountain defines a "Grant Project" as a project financed in whole or in part by revenues received from the Federal and/or State Government for operating or capital proposed as defined by the grant contract. The project may include expenditures that span across multiple fiscal years.

Section 2. Project Authorization

The project authorized is Hurricane Helene. Beginning September 25th, 2024, the Town of Black Mountain entered into a State of Emergency within North Carolina. September 28th, 2024 a Federal Major Disaster Declaration for the State of North Carolina due to Tropical Storm Helene was issued. September 30th, 2024 the Town of Black Mountain declared a State of Emergency. FEMA-4827-DR, North Carolina Disaster Declaration as of September 28, 2024, defines the Incident Period as September 25, 2024 and continuing.

Section 3. Funding

This project is to be funded in whole or part by FEMA-4827-DR. FEMA's Office of Response and Recovery has determined that with the President's Emergency Declaration, exigent and emergency circumstances currently exist. FEMA Assistance for this project has been declared for 100% of approved expenditures. For all permanent expenditures related to the storm FEMA has declared 90% reimbursement. The state of NC Emergency Management has declared funding of 10% to cover remaining unreimbursed amounts from FEMA. Funds may be advanced from other Town of Black Mountain fund accounts for the purpose of making payments as due. Reimbursement requests should be made to any applicable grantor agency following the regulations and rules of the grant.

Town of Black Mountain Operating Fund Transfers:

- Initial Funding for this project will need to be provided by a budget amendment from the General Fund Balance. In the case of funding that is not needed due to other funding sources, the Town will transfer unneeded funds transferred from the General Fund back to the general fund.
- The board approved in the January agenda meeting to Transfer funding from the general fund to the Helene Project to cover costs to Veteran Park Fencing in the amount of \$121,000.

NCLM is the Town's insurance carrier. The Town has received insurance proceeds totaling \$2,243,085.73 to date:

- An advanced payment of \$1,500,000 has been received by NCLM to assist in immediate needs while our insurance claims are being completed. This payment will be deducted from the insurance proceeds to be received for flood damage to Town buildings.
- Total Vehicle and Equipment Insurance Claims paid to date from NCLM equal \$743,085.73.

Donations

- The Town has received a donation in the amount of \$67,000 from Black Mountain Presbyterian Church to assist in the repairs at Veteran's Park

FEMA Funding Received to Date:

- The Town has received a payment of 50% of the emergency expenditures submitted. The total amount received was \$860,666.18.

State Funding Has Been Received for the Following Items:

- NC DEQ Division of Water Infrastructure project Number HEL-0003 provides

funding up to the amount of \$3,000,000, repayable at 0% interest. The DEQ Water Infrastructure Emergency Bridge Loan Program established in Session Law 2024-53 Section 4C.7 has been awarded to the Town.

- The Town has also been awarded an additional \$200,000 in grant funds for engineering assessment, planning and design work associated with the Water Infrastructure Emergency Bridge Loan.
- NC Department of State Treasurer has awarded a loan in the amount of \$705,703.37 to aid with Cashflow due to Hurricane Helene

Section 4. Directives

The officers of the Town of Black Mountain are hereby directed to proceed with the federal and/or state grant project within the terms of the rules and regulations of those grants and the budget contained. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the funds appropriated.

Section 5. Revenues

The following anticipated revenues are hereby adopted:

<u>Budgeted Revenues</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
Transfer In From General Fund	2,321,000.00	0.00	2,321,000.00
Transfer In From Powell Bill Fund	100,000.00	0.00	100,000.00
Grant Revenue Federal - FEMA Emergency Expenditures	860,666.18	0.00	860,666.18
NCDEQ - Infrastructure Loan	3,000,000.00	0.00	3,000,000.00
NCDEQ - Infrastructure Tech Assist Grant	200,000.00	0.00	200,000.00
NCDST - Cashflow Loan	705,703.37	0.00	705,703.37
Contributions/Donations	0.00	67,000.00	67,000.00
Insurance Proceeds	2,216,452.40	38,732.07	2,255,184.47
Total Funds	\$9,403,821.95	\$105,732.07	\$9,509,554.02

<u>Budgeted Revenues</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
Transfer In From General Fund	2,321,000.00	0.00	2,321,000.00
Transfer In From Powell Bill Fund	100,000.00	0.00	100,000.00
Grant Revenue Federal - FEMA Emergency Expenditures	860,666.18	0.00	860,666.18
NCDEQ - Infrastructure Loan	3,000,000.00	0.00	3,000,000.00
NCDEQ - Infrastructure Tech Assist Grant	200,000.00	0.00	200,000.00
NCDST - Cashflow Loan	705,703.37	0.00	705,703.37
Contributions/Donations	0.00	67,000.00	67,000.00
Insurance Proceeds	2,216,452.40	38,732.07	2,255,184.47
Total Funds	\$9,403,821.95	\$105,732.07	\$9,509,554.02

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Transfer In From General Fund	2,321,000.00	0.00	2,321,000.00
Transfer In From Powell Bill Fund	100,000.00	0.00	100,000.00
Grant Revenue Federal - FEMA Emergency Expenditures	860,666.18	0.00	860,666.18
NCDEQ - Infrastructure Loan	3,000,000.00	0.00	3,000,000.00
NCDEQ - Infrastructure Tech Assist Grant	200,000.00	0.00	200,000.00
NCDST - Cashflow Loan	705,703.37	0.00	705,703.37
Contributions/Donations	0.00	67,000.00	67,000.00
Insurance Proceeds	2,216,452.40	38,732.07	2,255,184.47
Total Funds	\$9,403,821.95	\$105,732.07	\$9,509,554.02

Section 7. Records and Reporting

The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable

Section 8. Official Copies

Copies of this Capital Project Ordinance shall be furnished to the Town Clerk and shall be held in the Finance Department for the direction in carrying out this project.

Section 9. Project Expiration

This project ordinance expires when the project has been completed and Project Funds have been obligated and expended for all project expenditures by the Town OR by the date set forth within the grant funding contract, if applicable, whichever occurs sooner.

Duly adopted this 14th day of April 2025.

10. **COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER.** Town Attorney Craig Justus stated he is continuing to work through, and meet with, the Planning Board to review the Unified Development Ordinance (UDO) draft.
11. **COMMUNICATION FROM MAYOR AND TOWN COUNCIL - *None*.**
12. **CLOSED SESSION - N.C.G.S. 143-318-11 (A)(3)- ATTORNEY-CLIENT PRIVILEGE.** *Council Member Doug Hay made a motion to enter into closed session pursuant to NCGS 143-318-11(A)(3)- Attorney-Client Privilege. A vote of 4-0 in favor. Council Member Ryan Stone was absent. The time was 7:33 p.m.*
13. **ADJOURNMENT.** The Town Council returned to open session at 8:06 p.m. With no other items to be discussed, Mayor Sobol adjourned the meeting.

C. Michael Sobol, Mayor

Attest:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

April 23, 2025 | Special Called Meeting | Time: 8:30 A.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held a meeting on Wednesday April 23, 2025, at 8:30 a.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711. The purpose of this meeting was to hold a FY 2025-26 Budget Work Session.

Mayor C. Michael Sobol called the meeting to order at 8:34 a.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, and Council Member Ryan Stone.

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager; Wesley Barker, Town Clerk; Tammy Holland, Finance Director; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director; Steve Parker, Police Chief; Angela Reece, Project & Facilities Manager. Several other staff members were also present.

FY 2025-26 Budget Work Session.

This budget work session continued presentations from town departments with budget overviews and requests. The budget requests of the following departments were reviewed during this work session:

• Water Operations	• Powell Bill
--------------------	---------------

Noteworthy items discussed during these presentations are included below:

Water Operations

- Town Manager Josh Harrold and Public Works Director Jamey Matthews both spoke to the Council about the water operations budget. The City of Asheville, which Black Mountain currently purchases a bulk of water from to supply town customers, will be increasing their wholesale rates 33%. This creates a proposed \$275,000 increase in budget expenses.
- One way to save money on water costs, would be to drill more wells within the Town that would supply adequate water to our customers without having to purchase water from Asheville. Public Works Director Jamey Matthews stated the town would need ten additional wells to make up for what the town buys from Asheville. To get new wells online, the cost ranges between \$30,000-50,000 each, and each well must pass sampling tests to operate, which is not always guaranteed.
- Several council members express interest in looking into new wells in town.

Town Manager Josh Harrold stated all the previous budget expense requests are staff

recommendations with no cuts made, and the recommended budget will soon be presented to Council.

Revenue Budget Items

- Town Manager Josh Harrold then reviewed proposed revenue budget items across departments including General Fund, Planning, Fire, Powell Bill, Water, Stormwater, Police Department Forfeiture & Outreach, Penalty Fines & Forfeitures.
- A \$5 per month increase for the solid waste reduction fee is proposed, bringing the total to \$10 per month per customer.
- Further, there would be a water rate increase of approximately \$2.40 more than current rates.
- No property tax increase proposed at this time.

The Town Manager discussed fund balance appropriations to balance the budget and the need to appropriate as little as possible from fund balance to balance the budget, as otherwise, the Town would have to look at cutting positions to help balance the budget. The Town approved \$2 million to be moved from fund balance to the Hurricane Helene fund. The hope is to transfer some of these funds back to be able to help balance the budget. Also, there would be little money available to do projects with over the next FY.

The next FY 2024-25 budget workshop will be held on Thursday, May 1, 2025 at 8:00 a.m. at Town Hall.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 10:00 a.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



BLACK MOUNTAIN TOWN COUNCIL MINUTES

May 1, 2025 | Special Called Meeting | Time: 8:00 A.M.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

The Black Mountain Town Council held a meeting on Thursday, May 1, 2025, at 8:00 a.m. in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711. The purpose of this meeting was to hold a FY 2025-26 Budget Work Session.

Mayor C. Michael Sobol called the meeting to order at 8:00 a.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, and Council Member Ryan Stone.

The following staff members were present: Josh Harrold, Town Manager; Jessica Trotman, Assistant Town Manager; Wesley Barker, Town Clerk; Tammy Holland, Finance Director; Josh Henderson, Recreation & Parks Director; John Coffey, Fire Chief; Jamey Matthews, Public Works Director; Steve Parker, Police Chief; Angela Reece, Project & Facilities Manager. Several other staff members were also present.

FY 2025-26 Budget Work Session.

Town Manager Josh Harrold reviewed additional budget items with the Town Council, including a comparison of requested budget items and proposed revenues. Some noteworthy items included the following:

- A correction of the proposed water rate increases as mentioned at the last budget meeting, which would be an estimated \$3.20 increase on average, a 5% increase over projected rate originally presented.
- A proposed increase to the garbage fee to \$10 from \$5.
- The water bond payment of \$2.82 on customer's bills would be coming off of the water bills over the next year.
- Stormwater fees would remain the same at \$72 per year.
- Funding for the public safety building needs study is still included in the proposed budget at \$28,000 to address how the building should be used but would not address the structure itself and damages.

Some discussions took place regarding the meter reader position, the public safety building and facilities needs study, the school resource officer position, and customer service employee needs. Council Member Doug Hay stated he would like to see the fireworks be kept within the budget; Council Member Alice Berry proposed another community event in lieu of fireworks during July 4th.

Town Manager Josh Harrold reviewed requested new staff positions that have been recommended to be cut from the proposed budget. These include the Public Information Officer, Training Officer with BMFD and Finance Department positions.

The next FY 2024-25 budget workshop will be held on Thursday, May 8, 2025 at 5:00 p.m. at Town Hall before the monthly agenda work session meeting.

There being no further business, Mayor C. Michael Sobol adjourned the meeting at 9:17 a.m.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, Finance Director **MEETING DATE:** May 12, 2025

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance

TITLE OF ITEM: Extension of Tax Collection Agreement with Buncombe County

SUGGESTED MOTION(S):

To approve extension of the interlocal tax collection agreement with Buncombe County.

SUMMARY:

The Town's original agreement with Buncombe County for ad valorem tax listing and collection services was entered into around May 13, 2019. This agreement was extended for an additional 3 years within July of 2022. This amendment extends the interlocal agreement from July 1, 2025 until June 30, 2028.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. FY26 Black Mountain Collection Agreement Extension

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

EXTENSION OF TAX COLLECTIONS AGREEMENT

This Extension of Tax Collections Agreement made and entered into effective as of July 1, 2025 by and between County of Buncombe, a political subdivision of the State of North Carolina (hereinafter sometimes "County") and the Town of Black Mountain, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter sometimes referred to herein as "Town") collectively herein sometimes referred to as the "Parties."

Witnesseth:

Whereas, on or about July 2019 the Parties entered into a tax collections agreement "(Agreement)" pursuant to N.C. Gen. Stat. § 153A-445 and Article 20 of Chapter 160A of the North Carolina General Statutes in order to jointly exercise any function which they have been granted the power to exercise alone and to enter into contracts or agreements to specify the details of these joint undertakings;

Whereas, the Agreement provides that the County will bill and collect both the County and Town taxes upon the terms and conditions set forth therein for a Three (3) year period beginning July 1, 2019 and ending June 30, 2022; and

Whereas, the parties amended and/or extended the Agreement as follows:

- a. July 2022 – Extension 07/01/2022 through 06/30/25;
 - b. May 2022 – Addendum to replace paragraph 8 related to transfers of amounts collected;
 - c. September 2023 – Addendum to replace paragraph 9 and add sections 21 through 26;
- and

Whereas, as provided in the Agreement, the Parties desire to extend the Agreement and any prior Addendums for an additional term of three (3) years.

Now Therefore, in consideration of the mutual covenants of the parties hereto and for the purposes aforesaid, it is hereby agreed between the County and Town as follows:

- A. That as provided in paragraph 2 of the Agreement, the Parties agree to extend the Agreement for a new term of three (3) years beginning July 1, 2025 and ending June 30, 2028.
- B. The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall

have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

- C. That each and every other of the terms and conditions of the said original Agreement remain in full force and effect except as modified herein.

{Signatures on Following Pages}

IN WITNESS WHEREOF, the parties have executed this Extension of Tax Collections Agreement a of the day and year set forth below.

BUNCOMBE COUNTY

By:_____

Avril M. Pinder, County Manager

ATTEST:

Sarah Scarnecchia, Clerk to the Board

Town of Black Mountain

By:_____

ATTEST:

Town Clerk

This instrument has been preaudited
in the manner required by The Local
Government Budget and Fiscal Control Act

Name:

Finance Officer, Town of Black Mountain



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, Finance Director **MEETING DATE:** May 12, 2025

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance

TITLE OF ITEM: Consideration of Budget Amendments

SUGGESTED MOTION(S):

Approve budget amendments as presented.

SUMMARY:

The Town of Black Mountain Council adopts the following FY24-25 Budget Ordinance Amendment(s) for the purpose of appropriating additional funding required for expenditures. Budget amendments BA25-134:

- **BA25-27 Acceptance of ABC Grant Funds** **\$10,000**
 1. Recognize ABC Law Enforcement Special Allocation Grant from the Black Mountain ABC Store to be used within the Police Department for new Technology Equipment.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? No

If no, describe how it will be funded. Grant Funds Received from Local ABC Store

ATTACHMENTS:

1. Budget Amendment Report 050525



TOWN OF BLACK MOUNTAIN BUDGET AMENDMENT REPORT

BE IT ORDAINED by the Town Council of The Town of Black Mountain, North Carolina, that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2025.

Adjustment Number	Summary	Description	Account Number	Account Name	Account Type	Amended Amount
BA25-0000134	BAMEND - PD ABC Special Allocation	ABC Special Allocation for PD Technology	100-4510-42810	ABC Law Enforcement Revenues	Revenue	\$10,000.00
			100-4510-52115	Technology and Software License	Expense	\$10,000.00



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, Finance Director **MEETING DATE:** May 12, 2025

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance

TITLE OF ITEM: 2025 Audit Contract and Audit Engagement Letter

SUGGESTED MOTION(S):

Approve the fiscal year 2025 Contract to Audit Accounts from Gould Killian, CPA Group, P.A as presented

SUMMARY:

Requesting board approval and authorization of Town Manager to execute the audit contract of accounts for the fiscal year ending June 30, 2025. At the end of each fiscal year, the Town is required by General Statute 159-34 to have a third-party independent audit performed.

Attached is the standard Contract to Audit Accounts (LGC-205) and the Town of Black Mountain Fiscal Year 2025 Audit Engagement Letter, as provided by Gould Killian, CPA Group, P.A. The audit contract fee is \$52,400, this fee includes \$47,900 for the standard Audit Contract and \$4,500 for the Single Audit for one account. The Local Government Commission (LGC) must approve the contract prior to the audit work beginning.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? Yes

If no, describe how it will be funded.

ATTACHMENTS:

1. Town of Black Mountain Audit Contract
2. Town of Black Mountain Audit Eng Letter 2025

The	Governing Board
of	Town Council
	Primary Government Unit
	Town of Black Mountain
and	Discretely Presented Component Unit (DPCU) (if applicable)

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name
	Gould Killian CPA Group, P.A.
	Auditor Address
	100 Coxe Avenue, Asheville, NC 28801

Hereinafter referred to as Auditor

for	Fiscal Year Ending	Date Audit Will Be Submitted to LGC
	06/30/25	12/31/25

Must be within six months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.

2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. If the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period, the Auditor shall perform the audit in accordance with *Government Auditing Standards* (GAGAS). The Governmental Unit is subject to federal single audit requirements in accordance with Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards*, Subpart F (*Uniform Guidance*) and the State Single Audit Implementation Act. Currently the threshold is \$750,000 for a federal single audit and \$500,000 for a State Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501) the Auditor and Governmental Unit(s) should discuss, in advance of the execution of this contract, the responsibility for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512) to ensure proper submission.

Effective for audits of fiscal years beginning on or after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Auditing Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within six months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters. If matters identified during the audit were required to be reported as described in AU-C §260.12-.14 and were communicated in a method other than an AU-C §260 letter, the written documentation must be submitted.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Preparing financial statements in their entirety shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

Tammy Holland

Finance Director/Town of Blk Mtn

tammy.holland@tobm.org

OR Not Applicable ☐ (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

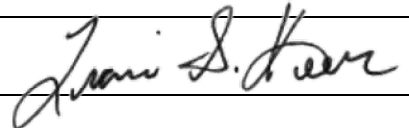
4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

Primary Government Unit	Town of Black Mountain
Audit Fee (financial and compliance if applicable)	\$ 40,400
Fee per Major Program (if not included above)	\$ 4,500 (not to exceed includes 1 major program)
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	\$ 7,500
All Other Non-Attest Services	\$
TOTAL AMOUNT NOT TO EXCEED	\$ 52,400

Discretely Presented Component Unit	
Audit Fee (financial and compliance if applicable)	\$
Fee per Major Program (if not included above)	\$
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	\$
All Other Non-Attest Services	\$
TOTAL AMOUNT NOT TO EXCEED	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Gould Killian CPA Group, P.A.	
Authorized Firm Representative (typed or printed)* Travis S. Keever	Signature* 
Date* 04/08/25	Email Address* tkeever@gk-cpa.com

GOVERNMENTAL UNIT

Governmental Unit* Town of Black Mountain	
Date Governing Board Approved Audit Contract* (Enter date in box to right)	
Mayor/Chairperson (typed or printed)*	Signature*
Date	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1). Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Sum Obligated by This Transaction:	\$ 52,400
Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
Date of Pre-Audit Certificate*	Email Address*

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
Date DPCU Governing Board Approved Audit Contract* (Enter date in box to right)	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1). Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Sum Obligated by this Transaction:	\$
DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
required signatures prior to submission.

PRINT



G. Edward Towson, II., CPA
Harvey Jenkins, CPA
Shon Norris, CPA, CFP®
Eric Michael, CPA
Daniel R. Mullinix, CPA
Terry Andersen, CPA
Travis Keever, CPA
Cheryl McCormick, CPA

April 7, 2025

To the Honorable Mayor
Members of Town Council
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711

Agreement to Provide Services

This agreement to provide services (the “Agreement”) is intended to describe the nature and scope of our services.

Objectives and Scope of the Audit

As agreed, Gould Killian CPA Group, P.A. (“GK” or “we”) will audit the financial statements of the governmental activities, business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of Town of Black Mountain as of and for the year ended June 30, 2025. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management’s discussion and analysis (MD&A), to supplement Town of Black Mountain’s basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Town of Black Mountain’s RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management’s Discussion and Analysis
2. Required schedules for Law Enforcement Officers’ Special Separation Allowance

3. Required schedules for the Local Government Employees' Retirement System
4. Required schedules for the Retiree Health Benefit Fund

We have also been engaged to report on supplementary information other than RSI that accompanies Town of Black Mountain's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. We will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements:

1. Combining and individual fund statements, budgetary schedules, and other schedules
2. Schedule of expenditures of federal and state awards (when applicable)

The introductory and statistical sections will not be subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we will not express an opinion or provide any assurance on them.

Audit Objectives

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually-or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on —

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- (Only if a single audit is determined to be required) – internal control over compliance related to major programs and an opinion on compliance with federal statutes, regulations, and the terms and conditions of federal and state awards that could have a direct and material effect on each major program in accordance with Single Audit Act Amendments of 1996 and *Title 2 U.S. Code of Federal Regulations (CFR) part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*.

Auditor's Responsibilities for the Audit of Financial Statements and Single Audit (if applicable)

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we will exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will bring these misstatements to your attention as proposed adjustments. At the conclusion of our audit we will communicate to those charged with governance (as defined below) all uncorrected misstatements. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit, if applicable. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

We have identified the following significant risk of material misstatement as part of our audit planning:

1. Management's override of internal controls

Audit Procedures—Internal Control

We will obtain an understanding of the Town and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and to obtain evidence sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by Uniform Guidance (if a Single Audit is required), we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal and state award program, as required by the Uniform Guidance. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Black Mountain's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

If a Single Audit is required, the Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal and state awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town of Black Mountain's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to an audit. The purpose of these procedures will be to express an opinion on the Town of Black Mountain's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Management Responsibilities for the Financial Statements and Single Audit (if applicable)

Our audit will be conducted on the basis that you (management) acknowledge and understand that you are responsible for (1) establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that Town programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal and state awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under *Government Audit Standards* and under Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the Town from whom we determine it necessary to obtain audit evidence.

Management's responsibilities also include identifying and informing us of significant contractor relationships in which the contractor is responsible for program compliance and for the accuracy and completeness of that information.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Town involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Town received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the Town complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal and state awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

If a Single Audit is required, you are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal and state awards (including notes and noncash assistance received, and COVID-19

related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and state awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal and state awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal and state awards that includes our report thereon OR make the audited financial statements readily available to intended users of the schedule of expenditures of federal and state awards no later than the date the schedule of expenditures of federal and state awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal and state awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal and state awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and state awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal and state awards, and related notes, and any other non-audit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal and state awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal and state awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the non-audit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Reproduction of Audit Report

If the Town plans any reproduction or publication of a document that includes our report, or any portion of it, and that is assembled differently from any paper or electronic version that we have previously reviewed (e.g., by the addition of financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval.

Posting of Audit Report and Financial Statements on Your Website

You agree that, if you plan to post an electronic version of the financial statements and audit report on your website, you will ensure that there are no differences in content between the electronic version of the financial statements and audit report on your website and the signed version of the financial statements and audit report provided to management by GK. You also agree to indemnify the GK from any and all claims that may arise from any differences between the electronic and signed versions.

Review of Documents In Connection With Offering of Sale of Debt

The audited financial statements and our report thereon should not be provided or otherwise made available to lenders, other financial institutions or sources of financing, or others (including advisors to such parties) in connection with any document to be used in the process of obtaining capital, including, without limitation, by means of the sale of securities (including securities offerings on the Internet) without first submitting copies of the document to us in sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

Availability of Records and Personnel

You agree that all records, documentation, and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, your personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

Assistance by Your Personnel

We also ask that your personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to Town employees and/or customers should be provided to us. In addition, we ask that you provide high-speed Internet access to our engagement team, if practicable, while working on the Town's premises. This assistance will serve to facilitate the progress of our work.

Peer Review Reports

Government Auditing Standards requires that we provide you with a copy of our most recent quality control review report. Our latest peer review report accompanies this letter.

Other Services

We are always available to meet with you and members of Town Council at various times throughout the year to discuss current business, operational, accounting, and auditing matters affecting the Town. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist you in any of these areas. We will also be pleased, at your request, to attend governing board meetings.

We will also assist in preparing the financial statements, schedule of expenditures of federal and state awards (if applicable), and related notes of Town of Black Mountain in conformity with U.S. generally accepted accounting principles based on information provided by you. These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings (if applicable). It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal and state awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

Independence

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the Town in the performance of our services. Any discussions that you have with personnel of GK regarding employment could pose a threat to our independence. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.

In order for us to remain independent, professional standards require us to maintain certain respective roles and relationships with you with respect to the non-attest services described above. Prior to performing such services in conjunction with our audit, management must acknowledge its acceptance of certain responsibilities.

We will not perform management functions or make management decisions on behalf of the Town. However, we will provide advice and recommendations to assist management of the Town in performing its functions and fulfilling its responsibilities.

The Town agrees to perform the following functions in connection with our performance of the financial statement services:

- a. Make all management decisions and perform all management functions with respect to the financial statement services provided by us.
- b. Assign Tammy Holland to oversee the financial statement services and evaluate the adequacy and results of the services.
- c. Accept responsibility for the results of the financial statement services.

The services are limited to those outlined above. We, in our professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as making management decisions or performing management functions. The Town must make all decisions with regard to our recommendations. By signing this Agreement, you acknowledge your acceptance of these responsibilities.

Engagement Administration, Fees, and Other

We will provide copies of our reports to the members of Town Council of the Town of Black Mountain; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the Town hereby authorizes GK to participate in such confirmation processes, including through the third party's website (e.g., by entering the Town's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that GK shall have no liability in connection therewith.

The audit documentation for this engagement is the property of Gould Killian CPA Group, P.A. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the North Carolina Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Gould Killian CPA Group, P.A. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal or state oversight agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in June 2025 and to issue our reports no later than December 31, 2025. Travis S. Keever is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fixed charges to the Town for the services described above of \$47,900 are expected to be \$40,400 for the financial statement audit and \$7,500 for financial statement preparation. An additional variable fee of \$4,500 per major program will be charged should a federal and/or state single audit be necessary.

The fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. We anticipate the time necessary to complete your audit will approximately 375 hours in total. If significant additional time is necessary (over 400 hours), we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation.

This fee structure does not take into consideration effects that any future standards promulgated by the Governmental Accounting Standards Board and/or other professional bodies will have on our audit procedures. As we become aware of additional audit procedures resulting from these circumstances, we will notify you of the situation and the estimated additional cost.

As a result of future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

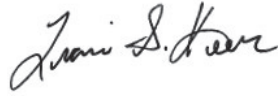
Reporting

We will issue written reports upon our completion of the audit. Our reports will be address to the members of the Town Council for the Town of Black Mountain, North Carolina. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs to our auditor's report, or if necessary, withdraw from this engagement. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports, or may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. If applicable, the Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We believe the foregoing letter accurately summarized the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please acknowledge this by signing and returning to us a copy of this Agreement and retaining a copy for your files. We will forward the signed engagement letter and LGC contract to the Local Government Commission.

Very truly yours,



Travis S. Kever
Certified Public Accountant

RESPONSE:

This letter correctly sets forth the understanding of Town of Black Mountain.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Laurel Mabery, Accountant **MEETING DATE:** May 12, 2025
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Finance
TITLE OF ITEM: Monthly Tax Collector Report

SUGGESTED MOTION(S):

I move to approve the tax collector report as presented.

SUMMARY:

Tax Collector Report for March 2025 is attached.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. Tax Collector Report - March 2025



TOWN OF BLACK MOUNTAIN TAX COLLECTOR'S REPORT

TO: Black Mountain Board of Commissioners

FROM: Laurel Mabery, Municipal Tax Collector

DATE: Monday, May 12, 2025

SUBJECT: March 2025 Tax Collector Report

According to GS 105-350(7) it is the duty of the tax collector to submit to the governing body at each of its regular meetings a report of the amount collected on each year's taxes with which is charged, the amount remaining uncollected, and the steps taken to encourage or enforce payment of uncollected taxes. Below is the month end report for collections (current and prior years), provided by the Buncombe County Tax Collector. The tax department is using all collection remedies as provided by general statute to collect delinquent taxes including but not limited to garnishments, attachments, and NC Debt Setoff.

CURRENT YEAR TAX -ADVALOREM TAXES

Billed	\$ 5,324,247.84
Collected	\$ 5,247,597.56
Adjustments and Releases	\$ 4,825.31
Outstanding real and personal property taxes	\$ 81,475.59

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR 98.47%

PRIOR YEAR TAXE(S) COLLECTED WITHIN THE MONTH

Collected	\$ 1,287.21
Adjustments and Releases	\$ -

Per NCGS 105-381(b) the Tax Collector is reporting tax releases/refunds within the current period:

Ad Valorem	\$ 121.43
Motor Vehicle	\$ 113.92



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER:	Wesley Barker, Town Clerk	MEETING DATE:	May 12, 2025
AGENDA SECTION:	Consent Agenda	DEPARTMENT:	Town Clerk
TITLE OF ITEM:	Call for Public Hearing on Franchise Renewal with Enbridge (d.b.a. Dominion Energy) for Natural Gas Utilities		

SUGGESTED MOTION(S):

Motion to call for a public hearing on the franchise renewal for natural gas utilities with Enbridge on Monday, June 9th, 2025 at 6:00 p.m. in the Council Chambers of Town Hall, 160 Midland Ave., Black Mountain, NC 28711.

SUMMARY:

Dominion Energy (Enbridge Gas) has sent over the proposed franchise agreement renewal for natural gas. The original franchise agreement was adopted by the Town Council in 1995 for 30 years, expiring July 2025. When this franchise agreement was first adopted in 1995, a public hearing was held before the franchise ordinance was adopted by the Council. Attorney Justus has advised a public hearing be held if any citizen wishes to speak on the item. This hearing will be held at the next meeting on Monday, June 9th, 2025 at 6:00 p.m. in the Council Chambers. Following the public hearing on June 9th, the Council will then consider adoption of the franchise renewal. A draft of the franchise agreement to be renewed is attached, which has also been sent to the Town Attorney's office for review.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. Call for Public Hearing 06-09-2025 Natural Gas Franchise Renewal_Enbridge Energy
2. DRAFT_Black Mountain Franchise Agreement_draft_rev.March 21 2025



LEGAL NOTICE
BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, June 9, 2025, at 6:00 p.m.

**Location: Council Chambers, Black Mountain Town Hall, 160
Midland Ave., Black Mountain, NC 28711**

The Black Mountain Town Council will meet on **Monday, June 9, 2025, at 6:00 p.m.** in the Council Chambers at Town Hall, 160 Midland Ave., Black Mountain, NC. The purpose of this meeting is to hold a public hearing for the renewal of the franchise agreement for natural gas utilities with Enbridge (formerly Dominion Energy) for a thirty-year (30) term beginning in July 2025.

The meeting is open to the public.

Wesley M. Barker
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Wesley Barker, Town Clerk at 828-419-9310 or by email at town.clerk@tobm.org.

Posted to the Town Bulletin Board: 05/19/2025
Published in the Black Mountain News 05/29/2025 and 06/05/2025
www.townofblackmountain.org

ORDINANCE

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE PUBLIC WAYS OF THE TOWN OF BLACK MOUNTAIN NORTH CAROLINA, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A GAS UTILITY SYSTEM AND ALL NECESSARY MEANS FOR TRANSMITTING AND DISTRIBUTING GAS WITHIN SAID TOWN FOR A PERIOD OF 30 YEARS.

WHEREAS, Public Service Company of North Carolina, Incorporated proposes to continue to construct, operate and maintain a Gas Utility System and all necessary means for transmission and distribution of gas within the Town of Black Mountain North Carolina, (the "Town") and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Black Mountain North Carolina as follows:

SECTION 1. DEFINITIONS.

Whenever and wherever used in this Ordinance the following words and names shall have the following meanings:

- (a) **(CITY COUNCIL, TOWN BOARD, VILLAGE COUNCIL, BOARD OF COMMISSIONERS)** shall mean the governing body of the Town of Black Mountain North Carolina, as now or hereafter constituted.
- (b) **COMPANY** shall mean Public Service Company of North Carolina, Incorporated, its successors, and assigns.
- (c) **(CITY, TOWN, VILLAGE)** shall mean the Town of Black Mountain, North Carolina, including its present and future boundaries.
- (d) **DEPARTMENT OF TRANSPORTATION** shall mean the North Carolina Department of Transportation or its successor.
- (e) **GAS** shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina Utilities Commission.

- (f) **GAS UTILITY SYSTEM** shall mean all facilities of the Company in the Town used for the transmission or distribution of Gas within the Town.
- (g) **FERC** shall mean any reference made to the Federal Energy Regulatory Commission or its successor.
- (h) **COMMISSION** shall mean the North Carolina Utilities Commission, or any successor body lawfully constituted.
- (i) **PUBLIC WAY OR WAYS** shall mean any public street, avenue, road, alley, lane, bridge, or other public right-of-way within the Town over which the Town has jurisdiction or exercises control.
- (j) **GOOD UTILITY PRACTICES** shall mean the practices, methods and acts engaged in or approved by a significant portion of the gas industry during the relevant time period or other practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, requirements of governmental agencies having jurisdiction, and at the lowest reasonable cost. The term Good Utility Practices is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods, or acts.

SECTION 2. Grant of Authority

The right, power and authority is hereby granted to and vested in the Company to construct, install, replace, repair, maintain and operate transmission mains, gas mains, pipes, equipment, service lines, communications lines, facilities and other appurtenant apparatus of the gas system, for the purpose of operating a natural gas system along, across, and under the streets, alleys, bridges, rights-of-way, and other public places of the Town together with any necessary rights of access thereto; and to use that natural gas system to conduct a gas business. This granting of authority is provided that the Town as of the applicable time, has jurisdiction or exercises control of the public ways. This Franchise

Agreement shall also permit the Company to exercise the rights granted herein without the need for additional permit(s) from the Town.

SECTION 3. Conditions on Use of Public Ways

(a) No street, alley, bridge, right-of-way, or other public place used by the Company shall be obstructed longer than reasonably necessary during its work of construction or repair and shall be restored to the same good order and condition as when said work was commenced. However, should any such damage occur due to the Company's failure to use due care, the Company shall repair the same as promptly as possible, and, in default thereof, the Town, after written notice and opportunity for the Company to repair, may make such repairs and charge the reasonable cost thereof and collect the same from the Company.

(b) All work upon the streets and public places of the Town shall be done subject to reasonable inspection of the Town Manager or designee (or other legally constituted governing body) of the Town, all sidewalks or street pavements or street surfaces which may be displaced by reason of such work shall be properly replaced by the Company, its successors and assigns, to the reasonable requirements of the Town.

SECTION 4. Annexation Notification

The Town shall mail to the Company areas annexed into the Town. Said notices shall include pertinent maps and/or tax map numbers, so that newly annexed customers may be identified. Any written notice to the Company shall be sent to Public Service Company of North Carolina, GIS Services-Annexations, 800-A Gaston Road, Gastonia, NC 28056.

SECTION 5. Service

(a) The Company may supply any form of gas containing approximately one thousand (1,000) BTU's per cubic foot, and its obligation in respect thereto shall continue only so long as it is able to reasonably obtain an adequate supply of such gas hereunder, provided, however, that in the supply

of such gas the customers within the Town shall enjoy equal rights with respect to other similar customers served by the Company consistent with Commission rules and regulations.

(b) The Company shall, as with all other conditions and elements of service not fixed herein, be and remain subject to the rules and regulations of the Commission, Department of Transportation, and FERC or its successors, applicable to gas service in the Town.

SECTION 6. Nonexclusive Grant and Term

(a) The gas franchise granted by this Ordinance is not exclusive. The Town may grant the same or similar rights and privileges to other certified persons or companies at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.

(b) Upon ratification and acceptance, this franchise shall constitute a contract between the Town and the Company and shall be in force and effect for an initial term of 30 years and shall continue in force and effect year-to-year thereafter until properly terminated by either party. Either party may terminate the contract at the end of its initial term or its anniversary date any year thereafter, by giving written notice of its intention to do so no less than one (1) year before the proposed date of termination.

SECTION 7. Franchise Not Waiver of Law

This franchise is subject to the constitution and laws of the State of North Carolina and is not a waiver of any present or future law or regulation. This franchise is not a limitation of the authority of the Town to enact any ordinance or policy that does not diminish, conflict, or impair the rights and authority granted to the Company in this franchise or otherwise impose additional obligations on the Company in order to exercise the rights granted herein.

SECTION 8. Regulations, Safety and Customer Service

(a) Gas utility service is not guaranteed to be free from interruptions, supply failure or outages.

(b) The Company will restore gas utility service using Good Utility practices.

(c) The Company shall maintain and operate its Gas Utility System in compliance with applicable State and Federal maintenance and safety regulations.

(d) Company vehicles responding to natural gas emergencies may park as close to the location of the emergency as is practicable.

SECTION 9. Commission Rules and Rates

The Company may from time to time declare, make, and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the Town. The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 10. Plat of Gas Utility System

The Company shall maintain maps or plats of its Gas Utility System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices, and the Town may review the same during any regular business hours of the Company.

SECTION 11. Bankruptcy, Successors, Assigns

In the event the Company is adjudged bankrupt or its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, then the interest, rights and remedies of the Town in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance. Likewise, if the Company reorganizes, merges, or consolidates with any other company, then the Town is bound by this Ordinance.

SECTION 12. Revocation

In the event the Company fails to comply with the provisions of this Ordinance and, within thirty (30) days after receipt of written notice from the Town, the Company fails to cure or remedy such default, or to have begun reasonable measures to do so, then the Town may cause the Company to appear at a hearing before the Town upon thirty (30) days prior written notice. Any written notice to the Company shall be sent to Public Service Company of North Carolina, 800 Gaston Road Gastonia, NC 28053-1398, Attention: Local Government and Economic Development Manager. If at such hearing the Town should determine that the Company's failure or default has been substantial, repeated or flagrant, then upon such determination the Town may revoke and terminate this franchise; provided, however, that the Company may file with the Town within ten (10) days after such determination the Company's election to appeal to the proper North Carolina court, during the pendency of which the Ordinance shall remain in full force and effect. In that event the Town and Company agree that such court shall hear and determine *de novo* whether there has been substantial, repeated, or flagrant failure or default by the Company of the terms, conditions, or obligations of this Ordinance. Failure or default which cannot be corrected by the Company shall not be grounds for revocation or termination unless such failure or default shall be determined to be material and continuing.

SECTION 13. Indemnification:

The Company shall indemnify and hold harmless the Town, its officers, and employees from any losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from the action or inaction of the Company in constructing, operating, or maintaining a gas system, in carrying on the business of selling, transmitting or distributing gas, or in exercising or failure to exercise any right or privilege granted by this franchise and save and except for any such losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from, or contributed to, by the negligent action or inaction of the Town or any of its officers, agents, or employees. Provided, however, the Company's indemnification at any time is conditioned on the Town having notified the Company in writing of any such claim, demand, or suit within such time as

to give the Company reasonable opportunity to resolve or defend the same on behalf of the Town. In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand, or suit on behalf of the Town, and the Town shall cooperate fully with the Company in any such undertaking. If after proper notification, the Company fails to undertake any such responsibility, the Town shall have the right to resolve or defend any such claim, demand, or suit at the expense of the Company.

SECTION 14. Severability, Third Party Rights

- (a) If any provision in this contract is determined to be invalid, void, or unenforceable by any court or regulatory body having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement, or covenant of this Contract. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders, and regulations of any governmental authority having jurisdiction over the parties, their facilities, or gas supply, this Contract or transaction or any provisions thereof.
- (b) The rights hereunder in this Ordinance accrue exclusively to the parties, their successors, and assigns. It is the express intent of the parties that this franchise shall not create any rights in third parties.

SECTION 15. Effective Date, Term, Adoption, and Ratification

(a) This Ordinance shall be effective from and after the ____ day of _____, 2025 provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist in force for a period of 30 years hereafter, and continue in force year to year thereafter until cancelled upon written notice of either party at least one year in advance.

(b) All other Ordinances and clauses of Ordinances in conflict herewith are hereby repealed.

Adopted by the Town of Black Mountain the ____ day of _____, 2025, and hereby ratified.

C. Michael Sobol, Mayor

ATTEST:

APPROVED AS TO FORM:

Wesley Barker, Clerk

Attorney

ACCEPTANCE BY COMPANY

Public Service Company of North Carolina, Incorporated, does hereby accept and acknowledge the foregoing Ordinance, and in consideration of the benefits and privileges granted to it does hereby agree to the terms and conditions therein provided.

This is the _____ day of _____, 2025.

PUBLIC SERVICE COMPANY
OF NORTH CAROLINA, INCORPORATED

By: _____
D. Russell Harris
Vice President and General Manager

ATTEST:

Kelly Gray
(Corporate Seal)

Its: Assistant Corporate Secretary



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Jennifer Tipton, Senior Admin **MEETING DATE:** May 12, 2025
AGENDA SECTION: Public Hearing **DEPARTMENT:** Planning & Development Services
TITLE OF ITEM: Public Hearing for Voluntary Annexation of Property Owned by Givens Highland Farms

SUGGESTED MOTION(S):

I move to approve the voluntary annexation of property known as 99999 Frances Avenue and 320 Tabernacle Road into the Town of Black Mountain town limits.

SUMMARY:

There are two parcels (99999 Frances Avenue, PIN #0609-56-4489.00000 and 320 Tabernacle Road, PIN #0609-56-1464.00000) that have been purchased by Givens Highland Farms. The parcel identified as 99999 Frances Avenue is 3 acres and the parcel identified as 320 Tabernacle Road is 0.5 acres. Givens Highland Farms is seeking voluntary annexation of these parcels to be able to combine the parcels with their existing 75+ acre campus, all of which is inside Town limits.

The Planning Board heard this request at their March 24, 2025, meeting and found no reason the property should not be annexed into the Town limits. The Planning Board made one comment to request that Givens Highland Farms not use the access easement from Tabernacle Road to access the properties.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. 25_05_12_ORDINANCE_GIVENS_ANNEXATION

2. exhibit_a_givens_annexation_legal_description
3. givens_annexation_plat
4. Presentation on Public Hearings for Annexation and Rezoning Givens Highland Farms

ORDINANCE #

AN ORDINANCE ANNEXING THAT PROPERTY OF GIVENS HIGHLAND FARMS, LLC, ON THAT PLAT RECORDED IN PLAT BOOK 247 AT PAGE 83 INTO THE TOWN OF BLACK MOUNTAIN

WHEREAS, Givens Highland Farms, LLC has requested that the Town of Black Mountain annex that property owned by Givens Highland Farms, LLC and described as that 3.512-acre tract of land shown on that plat recorded in Plat Book 247 at Page 83, Buncombe County Registry; and

WHEREAS, Givens Highland Farms, LLC owns all of the property proposed to be annexed and submitted an application in their name and signed by them, so that such application and petition is signed by or on behalf of all the property owners as required by N.C.G.S 160A-31 et seq.; and

WHEREAS, the Town Clerk has investigated the annexation petition and has certified that he found as a fact that the petition was signed by all owners of the property lying within the area to be annexed; and

WHEREAS, Givens Highland Farms, LLC has asserted that there are no vested rights that they wish to retain after annexation; and

WHEREAS, a public hearing was held by the Town Council of the Town of Black Mountain after proper notice was given to the public and the parties; and

WHEREAS, the Town of Black Mountain will benefit from annexation of the proposed area to be annexed in that its annexation will allow the Town to regulate development and insure a use of such property that is beneficial to the area where it is located and not detrimental to the properties surrounding it.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Black Mountain, North Carolina, that the property described in Exhibit A as being all of that 3.512 acre parcel of land shown on that plat record in Plat Book 247 at Page 83, Buncombe County Registry, is hereby annexed and made a part of the corporate limits of the Town of Black Mountain, North Carolina.

This ordinance shall become effective on the 12th day of May 2025, if confirmed by the Town Council at its regular meeting in May 2025. In the absence of a majority vote of the Council to confirm this ordinance at that meeting, it shall become void and have no force or effect.

I move the adoption of the foregoing ordinance.

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of May 2025.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk

EXHIBIT A
LEGAL DESCRIPTION OF AREA TO BE ANNEXED

Beginning at an Axle found at the NE corner of the Givens Highland Farms LLC property as shown in Plat Book 236 Page 100; thence North 88° 02' 28" West 83.79 feet to a 1" capped iron pipe; thence North 84° 25' 10" West at 35.81 feet to a #5 rebar; thence North 11° 03' 18" East 174.44 feet to a #5 rebar; thence South 83° 52' 56" East 136.42 feet to a 1" solid rod; thence North 17° 01' 28" East 121.10 feet to a #5 rebar; thence South 87° 02' 56" East 469.32 feet to a #5 rebar; thence continuing South 87° 02' 56" East 17.48 feet to the centerline of a creek; thence following the centerline of the creek sixteen courses: South 06° 54' 21" West 20.21 feet; thence South 08° 50' 12" East 20.06 feet; thence South 14° 08' 48" 21.82 feet; thence South 67° 44' 16" West 18.38 feet; thence South 07° 20' 24" West 23.81 feet; thence South 68° 08' 38" East 20.28 feet; thence South 06° 19' 54" East 34.48 feet; thence South 48° 52' 42" West 41.44 feet; thence North 81° 40' 56" West 30.39 feet; thence South 58° 44' 50" West 20.89 feet; thence South 23° 41' 31" West 22.00 feet; thence South 76° 13' 01" West 20.30 feet; thence South 14° 51' 45" West 25.53 feet; thence South 21° 55' 39" West 19.37 feet; thence South 33° 20' 33" West 18.37 feet; thence South 47° 19' 20" West 15.52 feet to a capped iron pipe on the Northern line of the Givens Highland Farms LLC property shown in Plat Book 236 Page 100 (referenced above); thence along said line North 89° 04' 38" West 426.26 feet to the Axle at the beginning, being all that real property shown in Plat Book 247 Page 83, containing 3.512 acres more or less.

Public Hearings for Voluntary Annexation & Rezoning Request

**Jessica Trotman, Assistant Town
Manager**

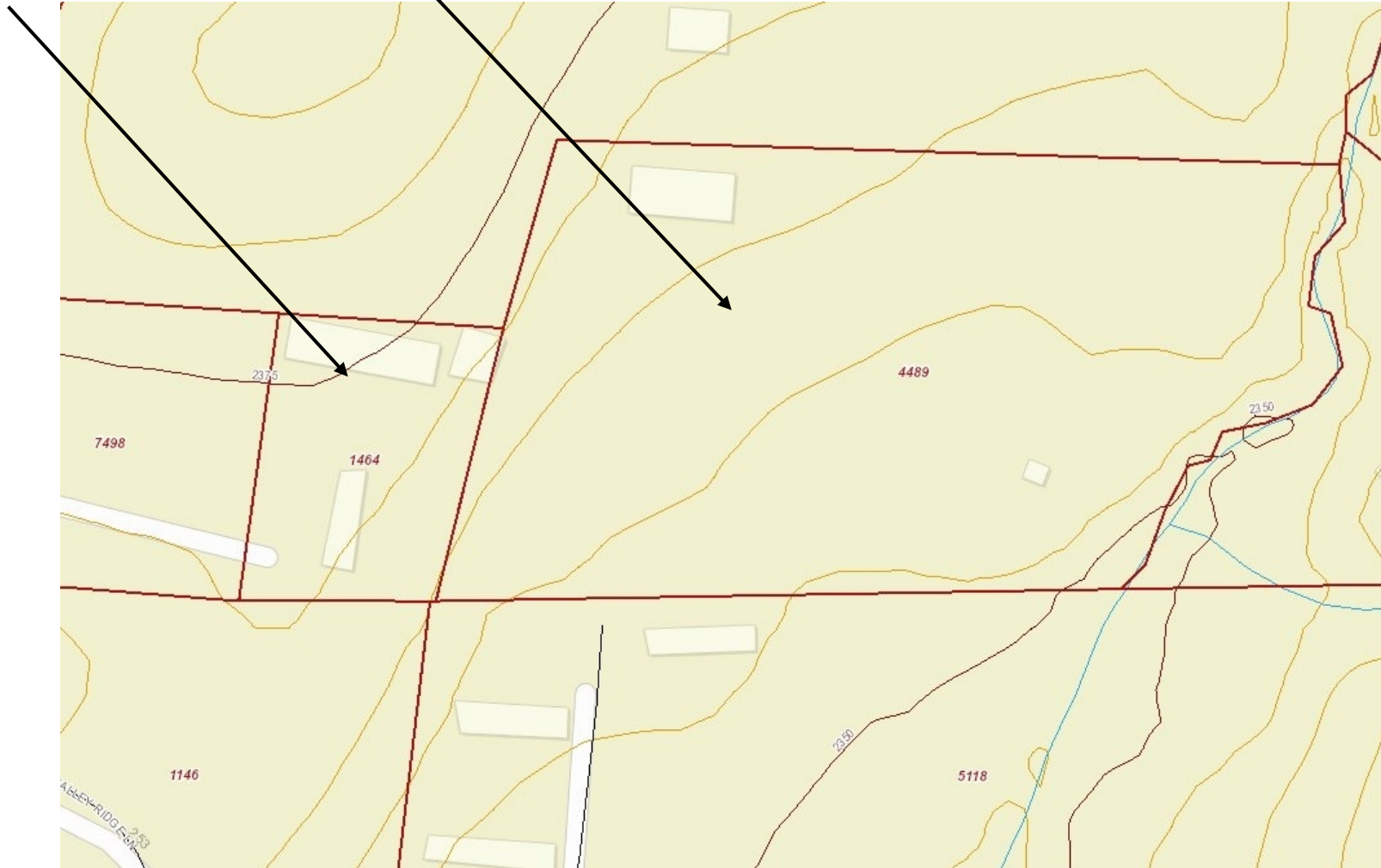
Location

Buncombe County GIS: post-Helene 2024 Imagery



Location

Buncombe County GIS: *Stream & River*, *5-Foot Contours* layers



Voluntary Annexation Application

Annexation Criteria Evaluation: Givens Highland Farms

Applicant	Givens Highland Farms, LLC
Hearing Type	Voluntary Annexation and Rezoning Request
Request	R-1 (Residential District) to OI-6 (Office and Institutional)
Conditions	N/A
Parcels	320 Tabernacle Road (0609-56-1464-00000) 99999 Frances Avenue (0609-56-4489-00000)
Tract Size	320 Tabernacle Road (0609-56-1464-00000): .501 acres (21,838 sf) 99999 Frances Avenue (0609-56-4489-00000): 3.011 acres (131,168 sf)
Topography	320 Tabernacle Road (0609-56-1464-00000): 7.31% slope 99999 Frances Avenue (0609-56-4489-00000): 6.98% slope
Existing Uses	320 Tabernacle Road (0609-56-1464-00000): one-story house (manufactured housing); year built: 2000; total finished area: 1,352 sf. 99999 Frances Avenue (0609-56-4489-00000): 61' x 24.8' barn.
Public Notification	The notification for this public hearing was 200 feet (Chapter 1, Section 1.5.4 (F) of the Land Use Code requires notification of the owner of that parcel of land and the owners of all parcels within 200 feet of the property boundary of the proposed amendment). 27 notices were mailed to those property owners in the mailing area.

Voluntary Annexation Application

Additional Information

Overlay Districts	None
Environmental	
Floodplain	N/A
Watercourse	USGS watercourse ('blue line stream') along east side of 99999 Frances Ave. (0609-56-4489-00000) – see blue line in GIS imagery above.
Utilities	
Water	N/A
Sewer	N/A
Landscaping	There are no landscaping requirements.
Transportation	
Street Classifications	Tabernacle Road is a state roadway. Frances Avenue is a private street.
Site Access	Access easement from Tablernacle Road.
Traffic Impact Analysis (TIA)	Not required by Land Use Code
Sidewalks	There are no sidewalks on Tabernacle Road or Frances Avenue.

Annexation Elevate Black Mountain

Criteria 1 – Aligns with the Comprehensive Plan

- The proposed annexation is consistent with the Town's Comprehensive Plan, particularly the Future Land Use Map, which designates this area for institutional or supportive residential uses. Givens Highland Farms is a longstanding and compatible institutional use that meets Town goals for aging-in-place, housing diversity, and access to health services.

Criteria 2 – Contiguous with Town Boundary

- The parcels are contiguous with the existing Town limits, satisfying N.C.G.S. 160A-31 requirements for voluntary annexation. Contiguity ensures streamlined provision of municipal services and regulatory oversight.

Criteria 3 – Creates Logical Town Boundaries

- The annexation would eliminate a small unincorporated pocket surrounded by Town jurisdiction and institutional development. This helps establish logical municipal boundaries and a more efficient service delivery area.

Criteria 4 – Consistent with Interjurisdictional Agreements

- There are no known conflicts with interjurisdictional agreements, and the Town's coordination with Buncombe County supports this annexation. The request aligns with collaborative planning goals.

Annexation – Elevate Black Mountain

Criteria 5 – Supported by Public Services

- Town staff have reviewed the service area, and adequate public services, including police, fire, sanitation, and inspections, can be provided now or in the near term.

Criteria 6 – Demonstrates Community Benefits

- The annexation and future development will support senior services and institutional growth, which offer clear community benefits such as expanded housing options, local employment, and economic investment.

Criteria 7 – Utility Service

- Utility access is available or can be extended without significant burden. Givens Highland Farms already has coordinated infrastructure and the site will connect to existing water and sewer systems, making it suitable for development under Town standards.

Criteria 8 – Supported by Public Schools Framework

- Because the development is an expansion of a senior-focused institutional campus, there is no anticipated impact on public school capacity. As such, this criterion is met by virtue of non-applicability to traditional K-12 school services.

Criteria 9 – Consistency with Transportation Investments

- The location is served by existing transportation infrastructure and is situated in an area with easy access to local arterials and planned improvements. The proposal does not require new major transportation investments and supports efficient land use near transportation corridors.

Planning Board Comments

- The following motion was approved by the Planning Board: recommend the rezoning request of OI-6 to the two parcels, including that the rezoning is consistent with the comprehensive plan in that benefits outweigh any impacts and the lot requirements and uses are similar to those for Valley Residential.
- The Planning Board added the following comment for Council: consider access and taxes for services rendered.

Rezoning Public Hearing

Rezoning Request

Proposed Use: Institutional Expansion
(Givens Highland Farms)

Current Buncombe County Zoning: R-1

Requested Zoning: OI-6 (Office and
Institutional)

Location and Zoning Map



R-1 (Residential District – Buncombe County)

Pink shading

Purpose: The R-1 Residential District is primarily intended to provide locations for single-family and two-family residential development and supporting recreational, community service, and educational uses in areas where public water and sewer services are available or will likely be provided in the future. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.

OI-6 (Office and Institutional)

Orange shading

Purpose and Intent: The office and institutional district is established to provide transition between residential and commercial districts; to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety; to accommodate planned developments that are institutional in nature and which may have multiple buildings and uses within one property; and to protect property values of residential, institutional and professional uses within the district in a way that is mutually beneficial.

Current Conditions

Parcel Address	PIN	Current Zoning	Current Use	Size	Notes
99999 France Avenue	0609-56-4489	R-1 (Buncombe County)	Residential (vacant)	~2.0 ac	Wooded, undeveloped, adjacent to Givens campus
320 Tabernacle Road	0609-56-1464	R-1 (Buncombe County)	Residential (occupied)	~1.5 ac	Single-family structure, suitable for reuse

District Comparison

	EXISTING	REQUESTED
Zoning District	R-1 (Residential District)	OI-6 (Office and Institutional)
Maximum Density	2 units per lot	Residential: 6 units per acre Non-Residential: -
Minimum Lot Size	30,000 sf (no public sewer) 12,000 sf (public sewer, no public water) 8,000 sf (public water and sewer)	1/6 acre (7,260 sf)
Minimum Lot Width	None	Residential: 60 feet Non-Residential: 100 feet
Minimum Lot Depth	None	100 feet
Front Setback	10 feet	Residential: 30 feet Non-Residential: 40 feet
Side Setback	7 feet	Residential: 10 feet Non-Residential: 30 feet
Rear Setback	15 feet	Residential: 20 feet Non-Residential: 30 feet (40 feet if abutting residential district)

Comprehensive Plan

The Future Land Use Map of **Elevate Black Mountain** identifies the Givens Highland Farms campus area as Institutional Campus:
DESCRIPTION: Institutional Campus areas include the continued and future use, expansion, and new development of academic, religious, government, and similar types in a campus arrangement. These areas should generally maintain the overall design integrity of the campus or facility setting and include a variety of different uses that meet the daily and weekly needs of residents, visitors, and workers.

INTENT

- » Protect and enhance green space
- » Low impact development stormwater and green building techniques
- » Pedestrian and bicycle facilities

PRIMARY USES

- » Residential (variety)
- » Open space and trails
- » Institutional uses

SECONDARY USES

- » Limited commercial
- » Civic

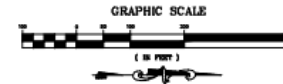
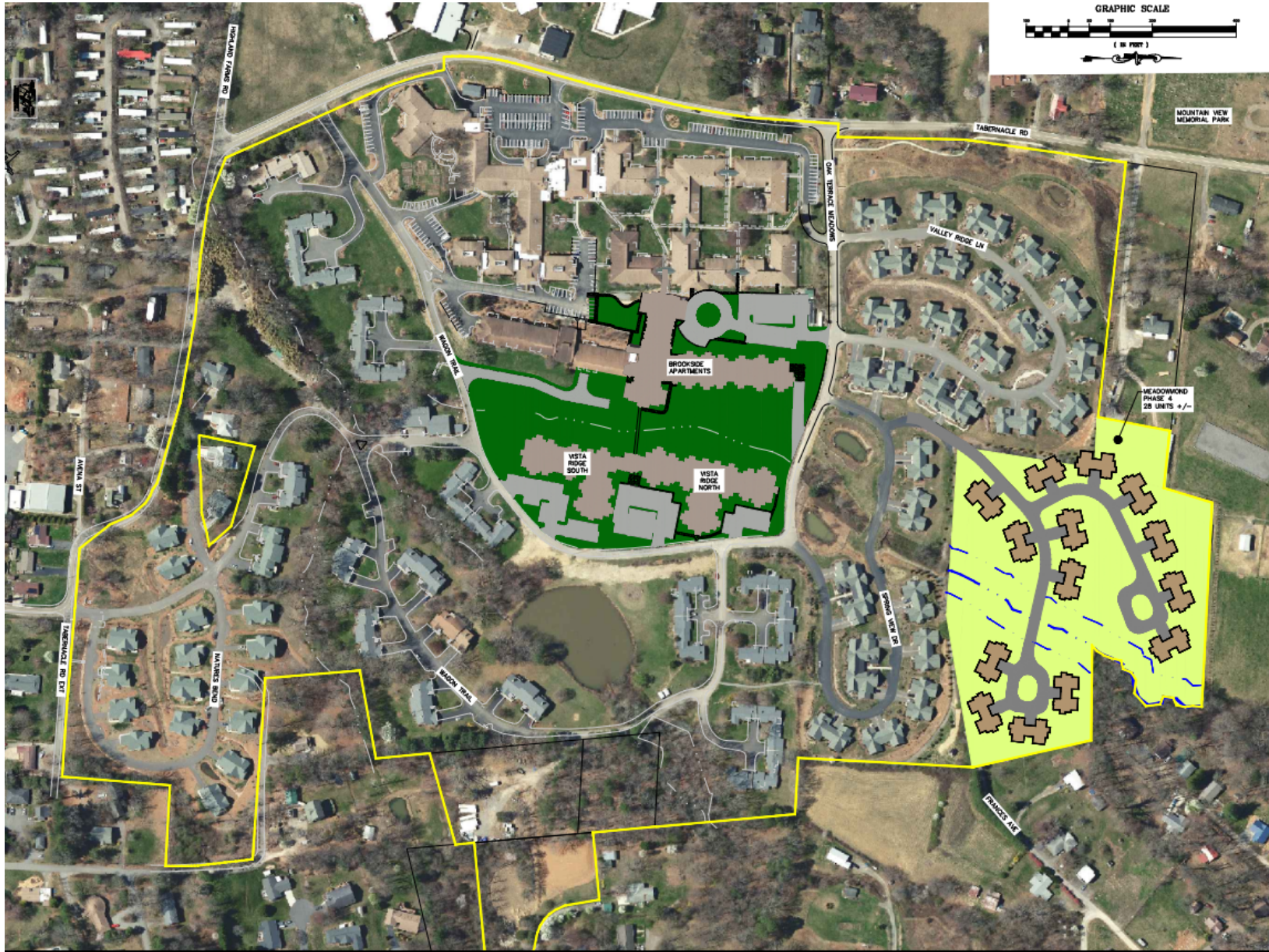
DESIRED CHARACTERISTICS

Building Height	1-4 stories
Building Setback	Varied
Lot Width	Varied
Block Length	Varied
Parking	Surface parking to the side, rear, and front, and low impact development stormwater principles



Givens Highland Farms Approved Master Plan

The following slide is the Master Plan
updated 10/3/2023 in the context of
Meadowmont Phase IV



WG&A
 ENGINEERS, PLLC
 724 9th AVENUE WEST
 HENDERSONVILLE, NC 28739
 (828) 687-7177
 WG&A.COM
 NC LICENSE P-1342

**Givens
 Highland Farms
 Meadowmont
 Phase IV**
 Black Mountain
 Buncombe County
 North Carolina

**Preliminary
 Not For
 Construction**

DATE	DESCRIPTION



PROJECT NUMBER: 24172
 DATE: 10-2-22

**MASTER
 PLAN**

C-100

SCALE: 1"=100'

Planning Board Comments & Recommendation

- The following motion was approved by the Planning Board: recommend the rezoning request of OI-6 to the two parcels, including that the rezoning is consistent with the comprehensive plan in that benefits outweigh any impacts and the lot requirements and uses are similar to those for Valley Residential.
- The Planning Board added the following comment for Council: consider access and taxes for services rendered.



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER:	Jennifer Tipton, Senior Admin	MEETING DATE:	May 12, 2025
AGENDA SECTION:	Public Hearing	DEPARTMENT:	Planning & Development Services
TITLE OF ITEM:	Public Hearing to Rezone 99999 Frances Avenue and 320 Tabernacle Road from R-1 to OI-6.		

SUGGESTED MOTION(S):

I move to approve the ordinance rezoning properties known as 99999 Frances Avenue and 320 Tabernacle Road from R-1 to OI-6 (office and institutional district).

SUMMARY:

There is a 3-acre parcel off of Frances Avenue (identified as 99999 Frances Avenue, PIN #0609-56-4489.00000) and a 0.5-acre parcel off of Tabernacle Road (identified as 320 Tabernacle Road, PIN #0609-56-1464.00000) that have been purchased by Givens Highland Farms. The parcels are currently zoned R-1 by Buncombe County. Givens Highland Farms is also seeking voluntary annexation of these two parcels and, if approved, would like to have the properties rezoned to OI-6, which is the zoning designation for the existing 75+ acre campus. The Planning Board heard the request at their March 24, 2025, meeting and recommended the properties be rezoned to OI-6 upon annexation into the Town limits. The motion passed with a vote of 7-0.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. 25_05_12_ZONING_ORDINANCE_GIVENS
2. exhibit_a_givens_annexation_legal_description

3. Presentation on Public Hearings for Annexation and Rezoning for Givens Highlands Farm

ZONING ORDINANCE NO. #

**AN ORDINANCE AMENDING THE ZONING MAP FOR PROPERTY LOCATED AT
99999 FRANCES AVENUE AND 320 TABERNACLE ROAD**

WHEREAS, the Town of Black Mountain has the authority pursuant to Article 6 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, a comprehensive amendment to the Town's zoning regulations was adopted on January 11, 2010, (Ordinance No. #O-10-01) and is codified in Appendix A of the Town of Black Mountain Code of Ordinances (herein "Zoning Ordinance"), and map dividing and classifying the property within the Town's zoning jurisdiction were adopted on January 11, 20210, (Ordinance No. #O-10-01) and are on file and maintained in the Offices of the Town of Black Mountain Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, this proposed amendment is consistent with the Town of Black Mountain Comprehensive Plan and other officials plans of the Town of Black Mountain and is determined to be reasoabnle and in the public interest for the following reasons:

- a. The overall size of the tract of land proposed for the rezoning is reasonable compared to the size of the zoning district in which the subject property is located.
- b. The proposed rezoning is consistent with the comprehensive plan or elements thereof.
- c. The impact to adjacent property owners and surrounding community is reasonable and the benefits of the zoning shall outweigh any potential inconveniences or harm to the community.
- d. The allowed uses within the proposed zoning district are similar or comparable to the permitted uses as currently zoned.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BLACK MOUNTAIN
TOWN COUNCIL THAT:**

The Official Zoning Map be, and the same is hereby, amended as follows:

The zoning classification of that certain portion of real property described in Exhibit A and identified on the Buncombe County tax maps as PIN 0609-56-4889 and PIN 0609-56-1464, recorded in Deed Book 247, Page 83 and currently owned by Givens Highland Farms, LLC, from R-1 to Office and Institutional (OI-6). A copy of the official zoning map showing said lot is attached hereto as Exhibit "B" and made a part thereof.

This ordinance shall be in full force and effective on the date of adoption.

READ, APPROVED AND ADOPTED, this the 12th day of May 2025.

Wesley M. Barker, Town Clerk

C. Michael Sobol, Mayor

Approved to form

EXHIBIT A
LEGAL DESCRIPTION OF AREA TO BE ANNEXED

Beginning at an Axle found at the NE corner of the Givens Highland Farms LLC property as shown in Plat Book 236 Page 100; thence North 88° 02' 28" West 83.79 feet to a 1" capped iron pipe; thence North 84° 25' 10" West at 35.81 feet to a #5 rebar; thence North 11° 03' 18" East 174.44 feet to a #5 rebar; thence South 83° 52' 56" East 136.42 feet to a 1" solid rod; thence North 17° 01' 28" East 121.10 feet to a #5 rebar; thence South 87° 02' 56" East 469.32 feet to a #5 rebar; thence continuing South 87° 02' 56" East 17.48 feet to the centerline of a creek; thence following the centerline of the creek sixteen courses: South 06° 54' 21" West 20.21 feet; thence South 08° 50' 12" East 20.06 feet; thence South 14° 08' 48" 21.82 feet; thence South 67° 44' 16" West 18.38 feet; thence South 07° 20' 24" West 23.81 feet; thence South 68° 08' 38" East 20.28 feet; thence South 06° 19' 54" East 34.48 feet; thence South 48° 52' 42" West 41.44 feet; thence North 81° 40' 56" West 30.39 feet; thence South 58° 44' 50" West 20.89 feet; thence South 23° 41' 31" West 22.00 feet; thence South 76° 13' 01" West 20.30 feet; thence South 14° 51' 45" West 25.53 feet; thence South 21° 55' 39" West 19.37 feet; thence South 33° 20' 33" West 18.37 feet; thence South 47° 19' 20" West 15.52 feet to a capped iron pipe on the Northern line of the Givens Highland Farms LLC property shown in Plat Book 236 Page 100 (referenced above); thence along said line North 89° 04' 38" West 426.26 feet to the Axle at the beginning, being all that real property shown in Plat Book 247 Page 83, containing 3.512 acres more or less.

Public Hearings for Voluntary Annexation & Rezoning Request

**Jessica Trotman, Assistant Town
Manager**

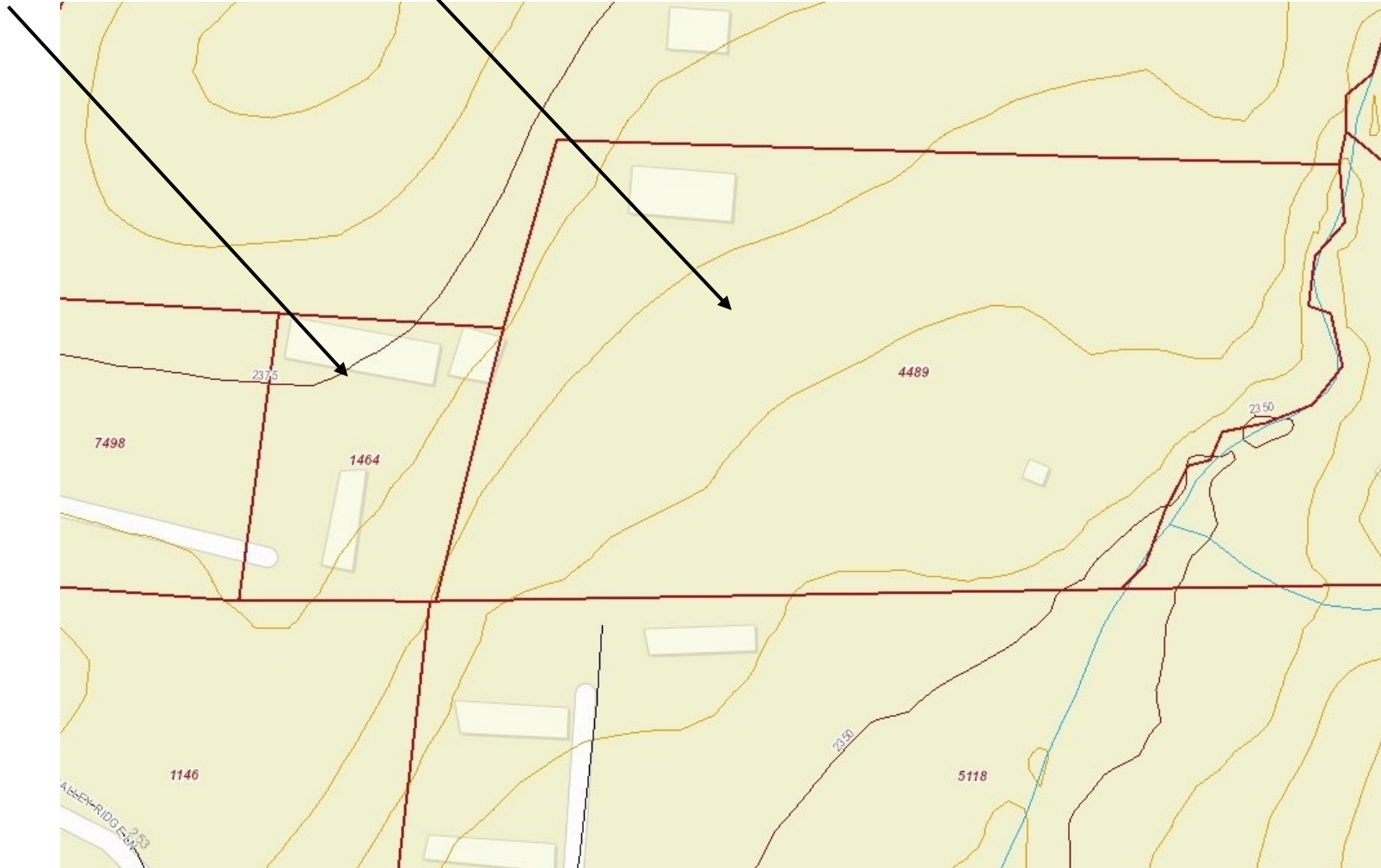
Location

Buncombe County GIS: post-Helene 2024 Imagery



Location

Buncombe County GIS: *Stream & River*, *5-Foot Contours* layers



Voluntary Annexation Application

Annexation Criteria Evaluation: Givens Highland Farms

Applicant	Givens Highland Farms, LLC
Hearing Type	Voluntary Annexation and Rezoning Request
Request	R-1 (Residential District) to OI-6 (Office and Institutional)
Conditions	N/A
Parcels	320 Tabernacle Road (0609-56-1464-00000) 99999 Frances Avenue (0609-56-4489-00000)
Tract Size	320 Tabernacle Road (0609-56-1464-00000): .501 acres (21,838 sf) 99999 Frances Avenue (0609-56-4489-00000): 3.011 acres (131,168 sf)
Topography	320 Tabernacle Road (0609-56-1464-00000): 7.31% slope 99999 Frances Avenue (0609-56-4489-00000): 6.98% slope
Existing Uses	320 Tabernacle Road (0609-56-1464-00000): one-story house (manufactured housing); year built: 2000; total finished area: 1,352 sf. 99999 Frances Avenue (0609-56-4489-00000): 61' x 24.8' barn.
Public Notification	The notification for this public hearing was 200 feet (Chapter 1, Section 1.5.4 (F) of the Land Use Code requires notification of the owner of that parcel of land and the owners of all parcels within 200 feet of the property boundary of the proposed amendment). 27 notices were mailed to those property owners in the mailing area.

Voluntary Annexation Application

Additional Information

Overlay Districts	None
Environmental	
Floodplain	N/A
Watercourse	USGS watercourse ('blue line stream') along east side of 99999 Frances Ave. (0609-56-4489-00000) – see blue line in GIS imagery above.
Utilities	
Water	N/A
Sewer	N/A
Landscaping	There are no landscaping requirements.
Transportation	
Street Classifications	Tabernacle Road is a state roadway. Frances Avenue is a private street.
Site Access	Access easement from Tablernacle Road.
Traffic Impact Analysis (TIA)	Not required by Land Use Code
Sidewalks	There are no sidewalks on Tabernacle Road or Frances Avenue.

Annexation Elevate Black Mountain

Criteria 1 – Aligns with the Comprehensive Plan

- The proposed annexation is consistent with the Town's Comprehensive Plan, particularly the Future Land Use Map, which designates this area for institutional or supportive residential uses. Givens Highland Farms is a longstanding and compatible institutional use that meets Town goals for aging-in-place, housing diversity, and access to health services.

Criteria 2 – Contiguous with Town Boundary

- The parcels are contiguous with the existing Town limits, satisfying N.C.G.S. 160A-31 requirements for voluntary annexation. Contiguity ensures streamlined provision of municipal services and regulatory oversight.

Criteria 3 – Creates Logical Town Boundaries

- The annexation would eliminate a small unincorporated pocket surrounded by Town jurisdiction and institutional development. This helps establish logical municipal boundaries and a more efficient service delivery area.

Criteria 4 – Consistent with Interjurisdictional Agreements

- There are no known conflicts with interjurisdictional agreements, and the Town's coordination with Buncombe County supports this annexation. The request aligns with collaborative planning goals.

Annexation – Elevate Black Mountain

Criteria 5 – Supported by Public Services

- Town staff have reviewed the service area, and adequate public services, including police, fire, sanitation, and inspections, can be provided now or in the near term.

Criteria 6 – Demonstrates Community Benefits

- The annexation and future development will support senior services and institutional growth, which offer clear community benefits such as expanded housing options, local employment, and economic investment.

Criteria 7 – Utility Service

- Utility access is available or can be extended without significant burden. Givens Highland Farms already has coordinated infrastructure and the site will connect to existing water and sewer systems, making it suitable for development under Town standards.

Criteria 8 – Supported by Public Schools Framework

- Because the development is an expansion of a senior-focused institutional campus, there is no anticipated impact on public school capacity. As such, this criterion is met by virtue of non-applicability to traditional K-12 school services.

Criteria 9 – Consistency with Transportation Investments

- The location is served by existing transportation infrastructure and is situated in an area with easy access to local arterials and planned improvements. The proposal does not require new major transportation investments and supports efficient land use near transportation corridors.

Planning Board Comments

- The following motion was approved by the Planning Board: recommend the rezoning request of OI-6 to the two parcels, including that the rezoning is consistent with the comprehensive plan in that benefits outweigh any impacts and the lot requirements and uses are similar to those for Valley Residential.
- The Planning Board added the following comment for Council: consider access and taxes for services rendered.

Rezoning Public Hearing

Rezoning Request

Proposed Use: Institutional Expansion
(Givens Highland Farms)

Current Buncombe County Zoning: R-1

Requested Zoning: OI-6 (Office and
Institutional)

Location and Zoning Map



R-1 (Residential District – Buncombe County)

Pink shading

Purpose: The R-1 Residential District is primarily intended to provide locations for single-family and two-family residential development and supporting recreational, community service, and educational uses in areas where public water and sewer services are available or will likely be provided in the future. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.

OI-6 (Office and Institutional)

Orange shading

Purpose and Intent: The office and institutional district is established to provide transition between residential and commercial districts; to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety; to accommodate planned developments that are institutional in nature and which may have multiple buildings and uses within one property; and to protect property values of residential, institutional and professional uses within the district in a way that is mutually beneficial.

Current Conditions

Parcel Address	PIN	Current Zoning	Current Use	Size	Notes
99999 France Avenue	0609-56-4489	R-1 (Buncombe County)	Residential (vacant)	~2.0 ac	Wooded, undeveloped, adjacent to Givens campus
320 Tabernacle Road	0609-56-1464	R-1 (Buncombe County)	Residential (occupied)	~1.5 ac	Single-family structure, suitable for reuse

District Comparison

	EXISTING	REQUESTED
Zoning District	R-1 (Residential District)	OI-6 (Office and Institutional)
Maximum Density	2 units per lot	Residential: 6 units per acre Non-Residential: -
Minimum Lot Size	30,000 sf (no public sewer) 12,000 sf (public sewer, no public water) 8,000 sf (public water and sewer)	1/6 acre (7,260 sf)
Minimum Lot Width	None	Residential: 60 feet Non-Residential: 100 feet
Minimum Lot Depth	None	100 feet
Front Setback	10 feet	Residential: 30 feet Non-Residential: 40 feet
Side Setback	7 feet	Residential: 10 feet Non-Residential: 30 feet
Rear Setback	15 feet	Residential: 20 feet Non-Residential: 30 feet (40 feet if abutting residential district)

Comprehensive Plan

The Future Land Use Map of **Elevate Black Mountain** identifies the Givens Highland Farms campus area as Institutional Campus:
DESCRIPTION: Institutional Campus areas include the continued and future use, expansion, and new development of academic, religious, government, and similar types in a campus arrangement. These areas should generally maintain the overall design integrity of the campus or facility setting and include a variety of different uses that meet the daily and weekly needs of residents, visitors, and workers.

INTENT

- » Protect and enhance green space
- » Low impact development stormwater and green building techniques
- » Pedestrian and bicycle facilities

PRIMARY USES

- » Residential (variety)
- » Open space and trails
- » Institutional uses

SECONDARY USES

- » Limited commercial
- » Civic

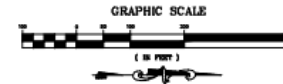
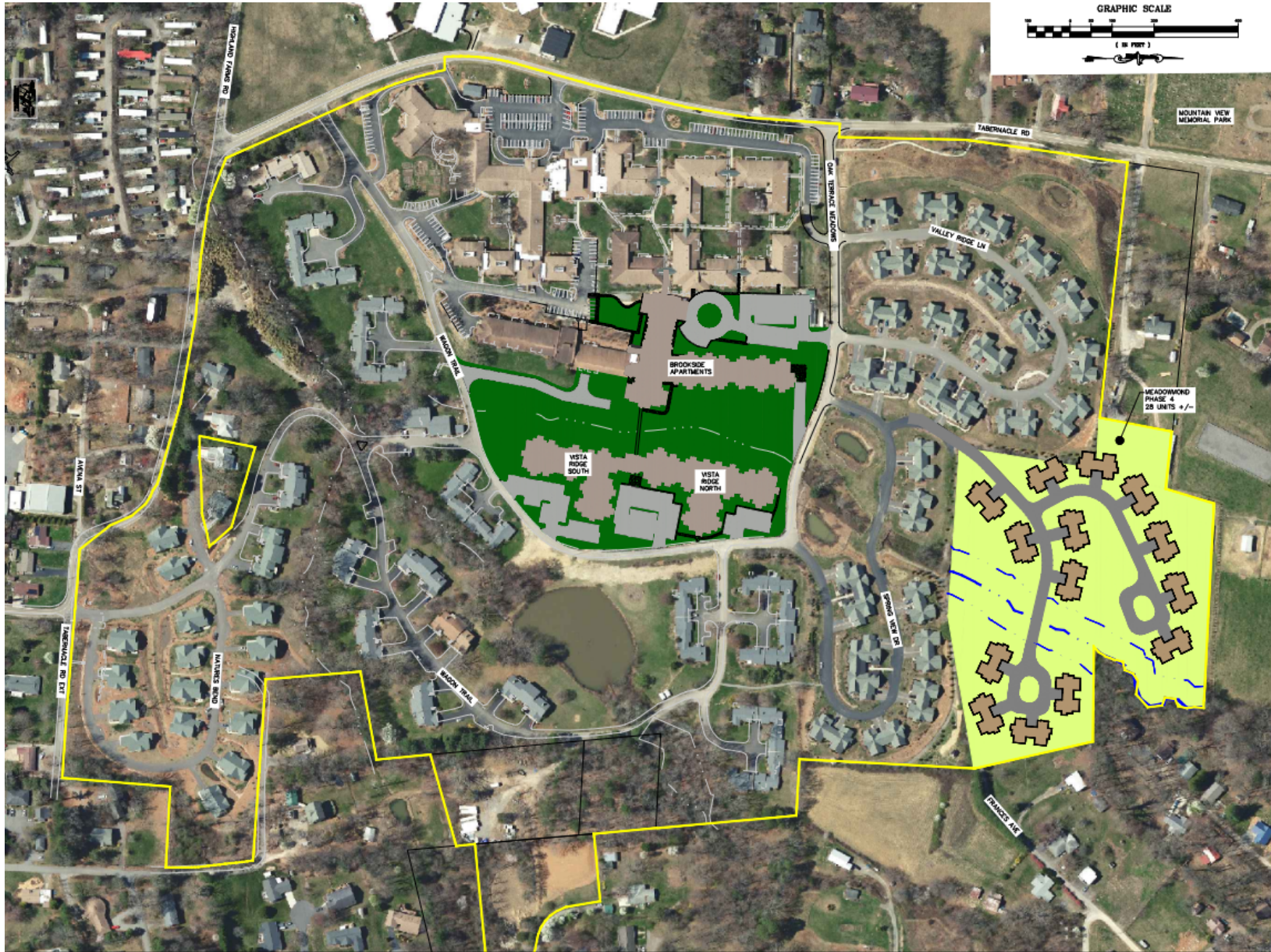
DESIRED CHARACTERISTICS

Building Height	1-4 stories
Building Setback	Varied
Lot Width	Varied
Block Length	Varied
Parking	Surface parking to the side, rear, and front, and low impact development stormwater principles



Givens Highland Farms Approved Master Plan

The following slide is the Master Plan
updated 10/3/2023 in the context of
Meadowmont Phase IV



WG&A ENGINEERING, PLLC
724 9th AVENUE WEST
HENDERSONVILLE, NC 28739
(828) 687-7177
WG&A.COM
NC LICENSE P-1342

Givens Highland Farms Meadowmont Phase IV

Black Mountain
Buncombe County
North Carolina



REVISIONS	
DATE	DESCRIPTION



PROJECT NUMBER: 24172
DATE: 10-2-22

MASTER
PLAN

C-100

SCALE: 1"=100'

Planning Board Comments & Recommendation

- The following motion was approved by the Planning Board: recommend the rezoning request of OI-6 to the two parcels, including that the rezoning is consistent with the comprehensive plan in that benefits outweigh any impacts and the lot requirements and uses are similar to those for Valley Residential.
- The Planning Board added the following comment for Council: consider access and taxes for services rendered.



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER:	Jennifer Tipton, Senior Admin	MEETING DATE:	May 12, 2025
AGENDA SECTION:	Public Hearing	DEPARTMENT:	Planning & Development Services
TITLE OF ITEM:	Public Hearing to Amend Chapter 8, Sections 8.2.2., 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29, Phase II Stormwater Ordinance to align the Phase II Stormwater Ordinance with the Town's requirements from the NC Department of Environmental Quality for the Town's National Pollutant Discharge Elimination System (NPDES) permit and the Stormwater Management Plan (SWMP)		

SUGGESTED MOTION(S):

I move that we approve the proposed text amendments to Chapter 8, Sections 8.2.2, 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29, Phase II Stormwater Ordinance as presented and find that the proposed changes are consistent with current state regulations and find that the amendments promote the general welfare.

SUMMARY:

Key Findings:

- The Ordinance requires Stormwater Control Measures (SCMs) for projects creating as little as 5,000 square feet of impervious surface, exceeding the NPDES Small MS4 permit's 1-acre minimum threshold.
- The ordinance is unpopular among residents, particularly single-family homeowners, due to high compliance costs and administrative complexity.
- Enforcement has been inconsistent, leading to confusion, non-compliance, and inefficiencies in stormwater management.
- Staff time and resources dedicated to enforcing the ordinance could be reallocated to broader community-wide stormwater initiatives.
- Inspection requirements, developed with previous state guidance, need revision to align with the NPDES permit and the Town's Stormwater Management Plan (SWMP).
- The lower threshold has not reduced the number of impairments in the Swannanoa River.

Recommended Changes:

1. Adjust the SCM Threshold:

- Increase the minimum impervious surface threshold from 5,000 square feet to half an acre (21,780 square feet) to reduce regulatory burdens while maintaining stormwater benefits.
- Classify projects into high-density (requiring periodic permit renewals) and low-density (monitored for built-upon-area change)

2. Revise Inspection Requirements:

- Amend the ordinance to allow property owners or any qualified professional to conduct annual SCM inspections, keeping records on-site.
- Modify the SWMP to:
 1. Require low-density SCMs to be inspected by the Town once per permit cycle.
 2. Require high-density SCMs to be inspected twice per permit cycle.
- Town-led inspections will maintain NPDES compliance, ensuring accountability without undue burden on property owners.

3. Refocus Stormwater Management Strategies:

- Rescind post-construction permits for properties that would no longer be subject to the revised threshold, reducing financial strain on homeowners.
- Develop a community-wide SCM program, reallocating resources to voluntary or incentivized stormwater improvements.
- Enhance education and outreach initiatives to promote best practices in stormwater management.

4. Clarify and Streamline Regulations;

- Update ordinance language to ensure consistency between post-construction stormwater regulations and sedimentation and erosion control regulations.
- Improve permitting clarity to align enforcement with the Town's broader stormwater goals.

By implementing these changes, the Town can ensure amore effective, equitable, and sustainable approach to stormwater management while mainting compliance with regulatory requirements and improving public trust in local governance.

The Planning Board considered these amendments at their March 24, 2025, regular meeting and made the following recommendations:

- Define “disturbance” and “impervious”

- List types of SCMs allowed to be used for low-density projects and high-density projects
- Point to definitions of low- and high-density and clarify the difference
- Allow one resubmittal within 30 days without payment of an additional fee
- Have the first inspection occur after 2 years or less

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? n/a

If no, describe how it will be funded. n/a

ATTACHMENTS:

1. 25_05_12_ORDINANCE_STORMWATER_AMENDMENTS
2. Presentation_Post_Construction_Stormwater_Hearing_Black_Mountain

ORDINANCE

AN ORDINANCE TO AMEND CHAPTER 8, SECTIONS 8.2.2, 8.2.7, 8.2.14, 8.2.15, 8.2.18, AND 8.2.29, PHASE II STORMWATER ORDINANCE TO ALIGN THE PHASE II STORMWATER ORDINANCE WITH THE TOWN'S REQUIREMENTS FROM THE NC DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE TOWN'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NDPES) PERMIT AND THE STORMWATER MANAGEMENT PLAN (SWMP)

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

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

WHEREAS, upon recommendation of the Planning Board, the following text amendment is consistent with the comprehensive plan and reasonable in the public interest because it promotes a green and resilient environment and promotes the general safety and welfare of the community.

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Town Council finds that the land use code text amendments are consistent with the comprehensive plan and are in the public interest because of the following findings:

- Promotes a green and resilient environment and promotes the general safety and welfare of the community.

WHEREAS, after notice duly given, a public hearing was held on May 12, 2025, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 8, Sections 8.2.2, 8.2.7, 8.2.14, 8.2.15, 8.2.18, and 8.2.29 of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

Chapter 8

8.2.1 Purpose.

- A. General. The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment ~~as well as illicit discharges into municipal stormwater systems~~. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

The ordinance seeks to meet the requirements for the town's National Pollutant Discharge Elimination System (NPDES) Permit.

~~This ordinance seeks to meet its general purpose through the following specific objectives and means:~~

- ~~(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;~~
- ~~(2) Requiring that new development and redevelopment maintain the predevelopment hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;~~
- ~~(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;~~
- ~~(4) Establishing design and review criteria for the construction, function, and use of structural stormwater SCMs that may be used to meet the minimum post-development stormwater management standards;~~
- ~~(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;~~
- ~~(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;~~
- ~~(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.~~
- ~~(8) Coordinating site design plans that include open space with the subdivision ordinance requirements for open space with the zoning administrator or planning board if required.~~

~~(9) Assigning responsibility and processes for approving the creation and maintenance of adequate drainage measures.~~

8.2.2 Applicability and jurisdiction of this ordinance.

- A. General. Beginning with and subsequent to its effective date, this ordinance ~~shall~~ **will** be applicable to all development and redevelopment occurring within the corporate limits of the Town of Black Mountain, unless exempt pursuant to section 8.2.2(C) of this section, exemptions.
- B. Activity threshold requiring a stormwater permit. A stormwater permit is required for any development and redevelopment which **disturbs one-half acre of land or more in all zoning districts, with the exception of the Central Business District where a stormwater permit is required for 1 acre or greater of disturbance** ~~results in an increase of impervious surface area by a net amount of 5,000 square feet or more. Projects developed under a common plan adding 5,000 square feet or more of impervious surface, regardless of the number of parcels included in the plan, requires a stormwater permit.~~

All phased developments **must will** achieve post-construction requirements at the completion of each phase unless otherwise approved by the stormwater administrator.

- C. Exemptions.
- (1) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.
 - (2) Development which **disturbs less than one-half acre of land** ~~adds less than 5,000 square feet of impervious surface and is not part of a larger common plan of development does not require a stormwater permit.~~
 - (3) Pre-existing development or development activities that do not remove or decrease existing stormwater controls ~~shall~~ **will** not be required to install new or increased stormwater controls.
 - (4) When a pre-existing development is redeveloped, either in whole or in part, increased stormwater controls ~~shall~~ **will** only be required ~~for~~ **according to** the amount of ~~impervious surface~~ **disturbance proposed with the development** ~~being created that exceeds the amount of impervious surface that existed before redevelopment.~~
 - ~~(5) Development activities within the town's designated historic district.~~
- D. ~~No development or redevelopment until compliance and permit. No development or redevelopment shall occur except in compliance with the provisions of this ordinance unless exempted. No development for which a permit is required pursuant to this~~

~~ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.~~

- E. Map. The stormwater map ~~shall~~ will be kept on file by the stormwater administrator and ~~shall~~ will be updated to take into account changes in the land area covered by this ordinance and the geographic location of all structural SCMs permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or SCM ~~shall~~ will be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

8.2.3 Interpretation.

- A. Meaning and intent. All provisions, terms, phrases, and expressions contained in this ordinance ~~shall~~ will be construed according to the general and specific purposes set forth in section [8.2.1](#), purpose and also defined in section [8.2.28](#). If a different or more specific meaning is given for a term defined elsewhere in Town of Black Mountain Code of Ordinance, the meaning and application of the term in this ordinance ~~shall~~ will control for purposes of application of this ordinance.
- B. Text controls in event of conflict. In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text ~~shall~~ will control
- C. Authority for interpretation. The stormwater administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the stormwater administrator, who ~~shall~~ will respond in writing within 30 days. The stormwater administrator ~~shall~~ will keep on file a record of all written interpretations of this ordinance.
- D. References to statutes, regulations, and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the design manual), or document, it ~~shall~~ will be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
- E. Computation of time. The time in which an act is to be done ~~shall~~ will be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Black Mountain, the deadline or required date of action ~~shall~~ will be the next day that is not a Saturday, Sunday or holiday observed by the Town of Black Mountain. References to days are calendar days unless otherwise stated.
- F. Delegation of authority. Any act authorized by this Ordinance to be carried out by the ~~Planning Director~~ Assistant Town Manager of Town of Black Mountain may be carried out by his or her designee as Stormwater Administrator.

8.2.4 Design manual.

- A. Reference to **North Carolina Department of Environmental Quality Stormwater Design Manual** ~~design manual~~. The stormwater administrator ~~shall~~ **will** use the policy, criteria, and information, including technical specifications and standards, in the **NC DEQ** design manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater SCMs.

The design manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

- B. Relationship of design manual to other laws and regulations. **The North Carolina Department of Environmental Quality Stormwater Design Manual is hereby adopted by reference.**

~~If the specifications or guidelines of the design manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the design manual.~~

- ~~C. Changes to standards and specifications. If the standards, specifications, guidelines, policies, criteria, or other information in the design manual are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.~~

- ~~D. Amendments to design manual. The design manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.~~

~~Prior to amending or updating the design manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.~~

8.2.5 Relationship to other laws, regulations and private agreements.

- A. Conflict of laws. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare ~~shall~~ **will** control.

- B. Private agreements. This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance ~~shall~~ will govern. Nothing in this ordinance ~~shall~~ will modify or repeal any private covenant or deed restriction, but such covenant or restriction ~~shall~~ will not legitimize any failure to comply with this ordinance. In no case shall Town of Black Mountain be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

8.2.6 Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance ~~shall~~ will be adjudged invalid by a court of competent jurisdiction, such judgement ~~shall~~ will not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

8.2.7 Effective date and transitional provisions.

- A. Effective date. This ordinance ~~shall~~ will take effect on ~~December 1, 2019~~ May 12, 2025.
- B. Final approvals, complete applications. All development and redevelopment projects for which complete and full applications were submitted and approved by the Town of Black Mountain prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment ~~shall~~ will be exempt from complying with all provisions of this ordinance dealing with management of post-construction runoff, but ~~shall~~ will be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions. If previously approved SCMs are not maintained as approved and regulated by the stormwater ordinance in effect at the time of their approval, such ~~LCMs~~ SCMs ~~shall~~ must be made to comply with this ordinance to the greatest extent possible when repaired or brought into compliance.

A phased development plan ~~shall~~ will be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

- (1) For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.
- (2) For any subsequent phase of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

- C. Violations continue. Any violation of provisions existing on the effective date of this ordinance **for development that has disturbed one half acre or more** ~~shall~~ **will** continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance.

SECTION 2: ADMINISTRATION AND PROCEDURES

8.2.8 Review and decision-making entities.

A. Stormwater administrator.

- (1) Designation. A stormwater administrator ~~shall~~ **will** be designated by the **Assistant Town Manager** ~~planning director~~ to administer and enforce this ordinance in whole or in part, at the **Assistant Town Manager's** ~~planning director's~~ discretion.

B. Powers and duties. In addition to the powers and duties that may be conferred by other provisions of the Town of Black Mountain Code of Ordinances and other laws, the stormwater administrator ~~shall~~ **will** have the following powers and duties under this ordinance:

- (1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- (2) To make determinations and render interpretations of this ordinance.
- (3) To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- (4) To maintain records, maps, forms and other official materials as related to the adoption, amendment, enforcement, and administration of this ordinance.
- (5) To provide expertise and technical assistance to the Town of Black Mountain Town Council, upon request.
- ~~(6) To designate appropriate other person(s) who shall carry out the powers and duties of the stormwater administrator.~~
- (7) To take any other action necessary to administer the provisions of this ordinance.

8.2.9 Review procedures.

- A. Permit required; ~~must apply for permit~~. A stormwater permit is required for all development and redevelopment **disturbing one-half acre or more of land** unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly

submitted and reviewed permit application, pursuant to this section. A stormwater permit ~~shall~~ **will** govern the design, installation, and construction of stormwater management and control practices on the site, including structural SCMs and elements of site design for stormwater management other than structural SCMs.

~~The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this ordinance, whether the approach consists of structural SCMs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.~~

- B. Authority to file applications. All applications required pursuant to this Code ~~shall~~ **will** be submitted to the stormwater administrator by the land owner or the land owner's duly authorized agent.
- C. Establishment of application requirements, schedule, and fees.

(1) **Before submitting a stormwater permit application the applicant will hold a concept plan and consultation meeting with the stormwater administrator.**

(2) Application contents and form. The stormwater administrator ~~shall~~ **will** establish requirements for the content and form of all applications and ~~shall~~ **will** amend and update those requirements from time to time. At a minimum, the stormwater permit application ~~shall~~ **will** describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

(3) Submission schedule. The stormwater administrator ~~shall~~ **will** establish a submission schedule for applications. The schedule ~~shall~~ **will** establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(4) Permit review fees. **Are set forth in the Town's schedule of fees.** ~~The Town of Black Mountain Town Council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.~~

~~(5) Administrative manual. For applications required under this ordinance, the stormwater administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the design manual in an administrative manual, which shall be made available to the public.~~

- D. Submittal of complete application. Applications ~~shall~~ **will** be submitted to the stormwater administrator pursuant to the application submittal schedule in the form established by the stormwater administrator, along with the ~~appropriate~~ fee **set forth in the Town's schedule of fees** ~~established pursuant to this section. An application shall will be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee.~~ If the stormwater administrator finds that an application is incomplete, the applicant ~~shall~~ **will** be notified of the deficient elements and ~~shall~~ **will** be provided with an opportunity to submit a complete application. ~~However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.~~
- E. Review. Within 15 working days after a complete application is submitted, the stormwater administrator ~~shall~~ **will** review the application and determine whether the application complies with the standards of this ordinance.
- (1) Approval. If the stormwater administrator finds that the application complies with the standards of this ordinance, the stormwater administrator ~~shall~~ **will** approve the application. The stormwater administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.
 - (2) Fails to comply. If the stormwater administrator finds that the application fails to comply with the standards of this ordinance, the stormwater administrator ~~shall~~ **will** notify the applicant and shall indicate how the application fails to comply. ~~The applicant shall have an opportunity to submit a revised application.~~
 - (3) Revision and subsequent review. A complete revised application ~~shall~~ **will** be reviewed by the stormwater administrator within 15 working days after its re-submittal and ~~shall~~ **will** be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within 30 calendar days from the date the applicant was notified, the application ~~shall~~ **will** be considered withdrawn, and a new submittal for the same or substantially the same project ~~shall~~ **will** be required along with the appropriate fee for a new submittal.

One re-submittal of a revised application may be submitted **within 30 calendar days** without payment of an additional permit review fee. Any re-submittal after the first re-submittal ~~shall~~ **will** be accompanied by a permit review fee additional fee, as established **by the adopted fee schedule** ~~pursuant to this ordinance.~~

8.2.10 Applications ~~for approval.~~

- A. Concept plan and consultation meeting required. Before a stormwater management permit application is deemed complete, the stormwater administrator or developer ~~shall~~ **will** request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting

should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the **requirements of the** post-construction stormwater **ordinance** ~~management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the town's comprehensive plan and land use code, and other relevant resource protection plans should be consulted in the discussion of the concept plan.~~

~~To accomplish this goal, the~~ **The** following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (1) Existing conditions/proposed site plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
 - (2) Natural resources inventory. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide ~~particular~~ opportunities or constraints for development and stormwater management.
 - (3) Stormwater management system concept plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.
- B. Stormwater management permit application. The stormwater management permit application ~~shall~~ **will** detail how post development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including section [8.2.13](#), standards. All such plans ~~shall~~ **will** be prepared by a qualified registered North Carolina professional engineer, ~~surveyor, soil scientist~~ or landscape architect, and the engineer, ~~surveyor, soil scientist~~ or landscape architect ~~shall~~ **will** perform services only in their area of competence, and ~~shall~~ **will** verify that the design of all stormwater management facilities and practices meets the submittal requirements for

complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the design manual, and that the designs and plans ensure compliance with this ordinance.

The submittal ~~shall~~ will include all of the information required in the submittal checklist established by the stormwater administrator. Incomplete submittals ~~shall~~ will be treated pursuant to section 8.2.9.D.

- C. As-built plans and final approval. Upon completion of a project, and before a certificate of occupancy ~~shall~~ will be granted, the applicant ~~shall~~ will certify that the completed project is in accordance with the approved stormwater management plans and designs, and ~~shall~~ will submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

The plans ~~shall~~ will show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans ~~shall~~ will certify, under seal, that the as built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the stormwater administrator ~~shall~~ will occur before the release of any performance securities.

- D. Other permits. No certificate of compliance or occupancy ~~shall~~ will be issued by the building inspector without final as-built plans and a final inspection and approval by the stormwater administrator, except where multiple units are served by the stormwater practice or facilities, in which case the building inspector may elect to withhold ~~a percentage~~ fifty percent of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

8.2.11 Approvals.

- A. Effect of approval. Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval ~~shall~~ will not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
- B. Time limit/expiration. An approved plan ~~shall~~ will become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The stormwater administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.
- C. Permit renewal required for high-density projects. Post construction stormwater permits determined to be high-density are required to be renewed every eight years.

In granting an extension, the stormwater administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

8.2.12 Appeals.

- A. Right of appeal. Any aggrieved person affected by any decision, order, requirements, or determination relating to the interpretation or application of this ordinance made by the stormwater administrator, may file an appeal to the board of adjustment within 30 days.

SECTION 3: STANDARDS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT

8.2.13 General standards.

~~All development and redevelopment to which this ordinance applies shall comply with the standards of this section.~~ **All proposed stormwater management design and methods submitted with a post-construction stormwater permit will meet the general standards of this section.**

8.2.14 Development standards for all permitted projects.

High- and low-density projects ~~shall~~ **will** comply with each of the following standards requiring a stormwater permit:

- A. Stormwater runoff from the development ~~shall~~ **will** be transported from the development by vegetated conveyances to the maximum extent practicable.
- B. Project sites must employ low impact development (LID) practices to analyze the infiltration capacity of natural drainage of the site and develop a system of controls which mimic the existing, natural hydrology and which cumulatively capture and treat the runoff from the first inch of rainfall. LID practice may include any combination of site design techniques, and SCMs to store, infiltrate, evaporate, retain and detain runoff on the site to more closely replicate the pre-development runoff thereby limiting the increase in pollutant loads caused by development.
- C. All built-upon area ~~shall~~ **will** be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water ~~shall~~ **will** 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.

- D. The approval of the stormwater permit ~~shall~~ will require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.
- E. The measures ~~shall~~ will control and treat runoff from the first inch of rain. Runoff volume drawdown time ~~shall~~ will be a minimum of 48 hours, but not more than 120 hours.

All structural stormwater treatment systems used to meet these requirements ~~shall~~ will be designed to have a minimum of 85 percent average annual removal for total suspended solids (TSS);

- F. General engineering design criteria for all projects ~~shall~~ will be in accordance with 15A NCAC 2H.1008(c), as explained in the design manual;

8.2.15 Standards for stormwater control measures.

Owners of property subject to this ordinance and required to install structural stormwater control measures ~~shall~~ will implement those measures in compliance with each of the following standards:

- A. Evaluation according to contents of design manual. All stormwater control measures and stormwater treatment practices (also referred to as Stormwater Control Measures, or SCMs) required under this ordinance ~~shall~~ will be evaluated by the stormwater administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the design manual. The stormwater administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this ordinance. It is presumed that all standards in the design manual will result in a minimum of 85 percent average annual removal of total suspended solids.
- B. Determination of adequacy; presumptions and alternatives. Stormwater treatment practices that are designed, and constructed, and maintained in accordance with the criteria and specifications in the design manual will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The stormwater administrator may require the applicant to provide the documentation, calculations, and examples necessary for the stormwater administrator to determine whether such an affirmative showing is made.

- C. Whenever LID practices are not achievable, or have not been demonstrated, the measures controlling the final runoff from the site shall control and treat the difference in stormwater runoff volume leaving the project site between pre- and post-development conditions for a minimum rate of ten year, 24-hour storm as determined by NOAA.
- D. Peak stormwater runoff rates ~~shall~~ will be controlled for all development at or exceeding 24 percent built upon area or high-density projects as defined by this ordinance, for both LID and conventional approaches. The peak stormwater runoff release rates leaving the site during post-construction conditions ~~shall~~ will be equal to or less than the pre-development peak stormwater runoff release rates for the one-year frequency, 24-hour duration storm event as determined by NOAA data for Black Mountain. The emergency overflow and outlet works for any pond or wetland constructed as a stormwater SCM ~~shall~~ will be capable of safely passing a discharge with a minimum recurrence frequency of 50 years. For detention basins, the temporary storage capacity ~~shall~~ will be restored within 72 hours. Requirements of the Dam Safety Act ~~shall~~ will be met when applicable.
- E. No single SCM ~~shall~~ will receive runoff from an area greater than three acres, however the total drainage area from SCMs used in a series may exceed this maximum.
- F. In addition to the standards for handling stormwater set out in the design manual, development and redevelopment that drains in whole or part to trout waters (class TR) waters shall design and implement the best stormwater practices that do not result in a sustained increase in receiving water temperature, while still meeting the other requirements of this ordinance.
- G. In addition to the standards for stormwater handling set out in the design manual, development and redevelopment that drains in whole or part to nutrient sensitive waters (class NSW) ~~shall~~ will design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this ordinance.
- H. Separation from seasonal high-water table. For SCMs that require a separation from the seasonal high-water table, the separation ~~shall~~ will be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

8.2.16 Variances.

- 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~~ will 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~~ will 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 SCMs.
 - (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 SCMs.
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.

~~8.2.17 Onsite wastewater.~~

~~A. — Operation and maintenance requirements. New and replaced onsite systems for domestic wastewater installed after the effective date of this ordinance shall be subject to the~~

~~operation and maintenance requirements of the Buncombe County Environmental Health Department.~~

~~B. Standards for operation and maintenance. Onsite systems for domestic wastewater shall be operated and maintained so as to avoid adverse effects on surface water and groundwater. Operation and maintenance of onsite systems for domestic wastewater shall be in accordance with the standards of the Buncombe County Environmental Health Department.~~

~~C. Enforcement. The Buncombe County Environmental Health Department shall be responsible for the enforcement of the installation, operation and maintenance standards for onsite systems for domestic wastewater within the limits of the town.~~

SECTION 4: MAINTENANCE

8.2.18 General standards for maintenance of SCMs.

A. Function of SCMs as intended. The owner of each structural SCM installed pursuant to this ordinance ~~shall~~ **will** maintain and operate the device(s) in accordance with the approved Operation and Maintenance Plan to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural SCM was designed.

~~B.~~ **Required inspections. Post-construction permit holders will annually inspect their SCM(s) based on the minimum criteria for the SCM type, which is outlined in their Operations & Maintenance (O & M) Agreement. These inspections can be conducted by the property owner or any other qualified professional they choose to retain. The inspection will be kept on site and made available for inspection by the Town. These inspections maintain compliance between the property owner and the Town's post-construction stormwater ordinance.** ~~Single-family and duplex maintenance inspection and report. SCMs installed to meet the needs of this ordinance shall submit to the stormwater administrator an inspection report every three years from either a NC State University (NCSU) Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector, NC professional engineer or landscape architect. The inspection report shall contain all of the following:~~

~~(1) The name and address of the landowner;~~

~~(2) The recorded book and page number of the lot of each structural SCM;~~

~~(3) A statement that an inspection was made of all structural SCMs;~~

~~(4) The date the inspection was made;~~

- ~~(5) — A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and~~
- ~~(6) — The original signature of the NCSU Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector, NC professional engineer or landscape architect.~~

C. **Town inspection of private SCMs. The Town will inspect low-density permit SCMs once per NPDES permit cycle. The Town will inspect high-density permit SCMs twice per NPDES permit cycle. These inspections will be conducted by Town staff or a contractor on behalf of the Town to maintain the Town's compliance with the Town's NPDES Small MS4 permit.** ~~Residential developments and commercial properties annual maintenance inspection and report. The person responsible for maintenance of any structural SCM installed pursuant to this ordinance shall submit to the stormwater administrator an inspection report from either a NCSU Cooperative Extension Certified Stormwater SCM Inspection & Maintenance Inspector, NC professional engineer or landscape architect. The inspection report shall contain all of the following:~~

D.

- (1) **If the Town finds issues with the SCM, the Town will require maintenance/improvements to be made following the O & M agreement.** ~~The name and address of the landowner;~~
- (2) **If the Town finds issues and no O & M is recorded for the property, the conditions can be deemed a public nuisance, and the Town can require abatement following the nuisance ordinance.** ~~The recorded book and page number of the lot of each structural SCM;~~
- ~~(3) — A statement that an inspection was made of all structural SCMs;~~
- ~~(4) — The date the inspection was made;~~
- ~~(5) — A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and~~
- ~~(6) — The original signature and seal of the NCSU Cooperative Extension Certified Stormwater SCM Inspection and Maintenance Inspector, NC professional engineer, or landscape architect.~~

~~All inspection reports shall be on forms supplied by the stormwater administrator. An original inspection report shall be provided to the stormwater administrator beginning one year from the date of as-built certification and annually thereafter.~~

8.2.19 Operation and maintenance agreement.

- A. In general. Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM pursuant to this ordinance, and prior to issuance of any permit for development or redevelopment requiring a structural SCM pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that ~~shall~~ will be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement ~~shall~~ will require the owner or owners to maintain, repair and, if necessary, reconstruct the structural SCM, and ~~shall~~ will state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it ~~shall~~ will grant to Town of Black Mountain a right of entry in the event that the stormwater administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case ~~shall~~ will the right of entry, of itself, confer an obligation on Town of Black Mountain to assume responsibility for the structural SCM. The operation and maintenance agreement must be approved by the stormwater administrator prior to plan approval, and it ~~shall~~ will be referenced on the final plat and ~~shall~~ will be recorded with the county register of deeds upon final plat approval. A copy of the recorded maintenance agreement ~~shall~~ will be given to the stormwater administrator within 14 days following its recordation.

The Operation and Maintenance Agreement must be recorded with the Buncombe County Register of Deeds prior to issuance of Certificate of Occupancy.

- B. Special requirement for homeowners' and other associations. For all structural SCMs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement ~~shall~~ will include all of the following provisions:
- (1) Acknowledgment that the association ~~shall~~ will continuously operate and maintain the stormwater control and management facilities.
 - (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs. If structural SCMs are not performing adequately or as intended or are not properly maintained, the Town of Black Mountain, in its sole discretion, may remedy the situation, and in such instances the Town of Black Mountain ~~shall~~ will be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural SCMs, provided that the Town of Black Mountain ~~shall~~ will first consent to the expenditure.

- (3) Both developer contribution and annual sinking funds ~~shall~~ will fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever ~~shall~~ will first occur, the developer ~~shall~~ will pay into the escrow account an amount equal to 15 percent of the initial construction cost of the structural SCMs.

Two-thirds of the total amount of sinking fund budget ~~shall~~ will be deposited into the escrow account within the first five years and the full amount ~~shall~~ will be deposited within ten years following initial construction of the structural SCMs. Funds ~~shall~~ will be deposited each year into the escrow account. A portion of the annual assessments of the association ~~shall~~ will include an allocation into the escrow account. Any funds drawn down from the escrow account ~~shall~~ will be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Black Mountain depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the Town of Black Mountain a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs.
- (6) Allowing the Town of Black Mountain to recover from the association and its member's any and all costs the Town of Black Mountain expends to maintain or repair the structural SCMs or to correct any operational deficiencies. Failure to pay the Town of Black Mountain all of its expended costs, after 45 days written notice, ~~shall~~ will constitute a breach of the agreement. In case of a deficiency, the Town of Black Mountain ~~shall~~ will thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees ~~shall~~ will be added to the recovery.
- (7) A statement that this agreement ~~shall~~ will not obligate the Town of Black Mountain to maintain or repair any structural SCMs, and the Town of Black Mountain ~~shall~~ will not be liable to any person for the condition or operation of structural SCMs.
- (8) A statement that this agreement ~~shall~~ will not in any way diminish, limit, or restrict the right of the Town of Black Mountain to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the Town of Black Mountain for any costs and injuries arising from or related to the structural SCM, unless the Town of Black Mountain has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

8.2.20 Inspection program.

Inspections and inspection programs by Town of Black Mountain may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCMs; and evaluating the condition of SCMs.

If the owner or occupant of any property refuses to permit such inspection, the stormwater administrator ~~shall~~ will proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person ~~shall~~ will obstruct, hamper or interfere with the stormwater administrator while carrying out his or her official duties.

8.2.21 Performance security for installation and maintenance.

- A. May be required. The Town of Black Mountain may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural SCMs are:
 - (1) Installed by the permit holder as required by the approved stormwater management plan, and/or
 - (2) Maintained by the owner as required by the operation and maintenance agreement.
- B. Amount.
 - (1) Installation. The amount of an installation performance security ~~shall~~ will be the total estimated construction cost of the SCMs approved under the permit, plus 25 percent.
 - (2) Maintenance. The amount of a maintenance performance security ~~shall~~ will be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the SCMs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.
- C. Uses of performance security.
 - (1) Forfeiture provisions. The performance security ~~shall~~ will contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the

applicant or owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

- (2) Default. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structure SCM in accordance with the applicable permit or operation and maintenance agreement, the stormwater administrator ~~shall~~ will obtain and use all or any portion of the security to make the necessary improvements based on an engineering estimate. Such expenditure of funds ~~shall~~ will only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town of Black Mountain ~~shall~~ will not return any of the unused deposited cash funds or other security, which ~~shall~~ will be retained for maintenance.
- (3) Costs in excess of performance security. If Town of Black Mountain takes action upon such failure by the applicant or owner, the Town of Black Mountain may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.
- (4) Refund. Within 60 days of the final approval, the installation performance security ~~shall~~ will be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security unless a separate landscaping and ongoing maintenance security has been provided. Any such landscaping ~~shall~~ will be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping ~~shall~~ will be released.

8.2.22 Notice to owners.

- A. Deed recordation and indications on plat. The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable), pertaining to every structural SCM ~~shall~~ will be referenced on the final plat and ~~shall~~ will be recorded with the county register of deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, ~~shall~~ will be recorded with the county register of deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

The Operation and Maintenance Agreement must be recorded with the Buncombe County Register of Deeds prior to issuance of Certificate of Occupancy.

- B. Signage. Where appropriate in the determination of the stormwater administrator to assure compliance with this ordinance, structural SCMs ~~shall~~ will be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign ~~shall~~ will be maintained so as to remain visible and legible.

8.2.23 Records of installation and maintenance activities.

The owner of each structural SCM ~~shall~~ will keep records of inspections, maintenance, and repairs ~~for at least five years from the date of creation of the record~~ and ~~shall~~ will submit the same upon reasonable request to the stormwater administrator.

8.2.24 Nuisance

The owner of each stormwater SCM, whether structural or non-structural SCM, ~~shall~~ will maintain it so as not to create or result in a nuisance condition.

8.2.25 Maintenance easement.

Every structural SCM installed pursuant to this ordinance ~~shall~~ will be made accessible for adequate maintenance and repair by a maintenance easement. The easement ~~shall~~ will be recorded and its terms ~~shall~~ will specify who may make use of the easement and for what purpose.

SECTION 5. ENFORCEMENT AND VIOLATIONS FOR COMPLIANCE AND PERMITS

8.2.26 General.

- A. Authority to enforce. The provisions of this ordinance ~~shall~~ will be enforced by the stormwater administrator, or any authorized agent of Town of Black Mountain. Whenever this section refers to the stormwater administrator, it includes his or her designee as well as any authorized agent of Town of Black Mountain.
- B. Violation unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and ~~shall~~ will constitute a violation of this ordinance.
- C. Each day a separate offense. Each day that a violation continues ~~shall~~ will constitute a separate and distinct violation or offense.
- D. Responsible persons/entities. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this ordinance ~~shall~~ will be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who

participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, responsible person(s) ~~shall~~ will include but not be limited to:

- (1) Person maintaining condition resulting in or constituting violation. An architect, engineer, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.
- (2) Responsibility for land or use of land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

8.2.27 Remedies and penalties.

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, ~~shall~~ will be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

A. Remedies.

- (1) Withholding of certificate of occupancy. The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (2) Disapproval of subsequent permits and development approvals. As long as a violation of this ordinance continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the planning board may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the subdivision for the land on which the violation occurs.
- (3) Injunction, abatements, etc. The stormwater administrator, with the written authorization of the town manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to

correct a violation of this ordinance. Any person violating this ordinance ~~shall~~ **will** be subject to the full range of equitable remedies provided in the General Statutes or at common law.

- (4) Correction as public health nuisance, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits of the Town of Black Mountain G.S. 160A-193, the stormwater administrator, with the written authorization of the town manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
 - (5) Stop work order. The stormwater administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order ~~shall~~ **will** remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.
- B. Civil penalties. Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the stormwater administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town of Black Mountain is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

8.2.28 Procedures

- A. Initiation/complaint. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint ~~shall~~ **will** state fully the alleged violation and the basis thereof, and ~~shall~~ **will** be filed with the stormwater administrator, who ~~shall~~ **will** record the complaint. The complaint ~~shall~~ **will** be investigated promptly by the stormwater administrator.
- B. Inspection. The stormwater administrator ~~shall~~ **will** have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.
- C. Notice of violation and order to correct. When the stormwater administrator finds that any building, structure, or land is in violation of this ordinance, the stormwater administrator ~~shall~~ **will** notify, in writing, the property owner or other person violating this ordinance. The notification ~~shall~~ **will** indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation ~~shall~~ **will** also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The stormwater administrator may deliver the notice of violation and correction order personally, by the Code Enforcement staff, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the stormwater administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

- D. Extension of time. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the stormwater administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the stormwater administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The stormwater administrator may grant 60-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The stormwater administrator may grant an extension only by written notice of extension. The notice of extension ~~shall~~ **will** state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.
- E. Enforcement after time to correct. After the time has expired to correct a violation, including any extension(s) if authorized by the stormwater administrator, the stormwater administrator ~~shall~~ **will** determine if the violation is corrected. If the violation is not corrected, the stormwater administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.
- F. Emergency enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the stormwater administrator may order the immediate cessation of a violation. Any person so ordered ~~shall~~ **will** cease any violation immediately. The stormwater administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 6: DEFINITIONS

8.2.29 Terms defined.

When used in this ordinance, the following words and terms ~~shall~~ **will** have the meaning set forth in this section, unless other provisions of this ordinance specifically indicate otherwise.

Built-upon area (BUA): That 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.

Department: The North Carolina Department of Environment and Natural Resources.

Design manual: All references herein to the Design Manual are to the latest published edition or revision as published by the North Carolina Department of Environmental Quality.

Development: Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Disturbance of land: Any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics including construction activity such as clearing, grading, excavation, or the filling of land.

Division: The Division of Water Quality in the Department.

High-density project: High-density projects shall comply with the requirements set forth in Rule .1003(3). See 15A NCAC 02H.1003 for calculation of project density and requirements for high-density projects.

Impervious: Not allowing fluid to pass through.

Larger common plan of development or sale: Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Low-density project: A project shall be considered a low-density project if it meets the low-density criteria set forth in Rule .1003(2) and contains no more than 24 percent built-upon area or no more than two dwelling units per acre. See 15A NCAC 02H.1003 for calculation of project density and requirements for low-density projects.

Low impact development: The term low impact development (LID) refers to systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bio retention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

25 year, 24-hour storm: The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 25 years and with a duration of 24 hours as defined by the National Weather Service.

Owner: The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Post-construction: The point in which construction activity has been concluded prior to issuing a certificate of occupancy or otherwise putting the property into use.

Redevelopment: Any development on previously-developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater storm water control than the previous development.

Stormwater Control Measure (formally known as Best Management Practice): An alternation of land or physical device engineered and/or designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural SCM includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural SCM" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

Substantial progress: For the purposes of determining whether substantial progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Post-Construction Stormwater Ordinance Changes

Jessica Trotman
Assistant Town Manager
and
Anne Phillip
Stormwater and Floodplain Administrator
May 2025

Purpose of the Amendment



Update and improve
post-construction
stormwater regulations



Ensure NPDES MS4
Phase II compliance



Address resident and
developer concerns



Align with
state/federal guidance



Improve stormwater
outcomes

Why Now?

Current
threshold (5,000
sq. ft.) too low

High costs and
frustration for
homeowners

No measurable
improvement in
water quality

Key Issues Identified

Overly burdensome threshold

Staff time diverted from priority projects

Misalignment with SWMP

DEQ inspection requirements and renewal requirements must be implemented

Minimal environmental gains from small-scale regulation

Recommended Changes

Raise Threshold from
5,000 sq. ft. to ½ acre
(21,780 sq. ft.)

Tiered Project
Classification as
Required by NPDES
permit.

```
graph TD; A[Tiered Project Classification as Required by NPDES permit.] --> B[High-density: Requires permits, permit renewal, & inspections]; A --> C[Low-density: Requires permits, no renewal, & inspections];
```

High-density:
Requires permits,
permit renewal, &
inspections

Low-density: Requires
permits, no renewal,
& inspections

Inspection Updates



Allow qualified professionals or owners to inspect stormwater control measures



Maintain records onsite



Town inspections:

Low-density: Once per permit cycle

High-density: Twice per cycle

Community-Wide Strategy

- Rescind permits for exempted properties
- Launch voluntary/incentive-based programs called for in the adopted Stormwater Master Plan
- Reallocate staff and funding to outreach & impactful projects



6.3 Flat Creek Neighborhood
Approach: Distributed Stormwater
Control Measures (PID#156)

Type(s): SCM; Programmatic support

Scale: Small to Medium

Project Description:

See Section 4.3 for overview of approach. This approximate 50-acre area is bounded by Montreat Road, East Street, Flat Creek on the east, and 7th Street on the south. While the overall project plan is similar to the distributed SCM pilot areas near Lake Tomahawk this area has some important distinctions, including:

- Higher percentage of effective impervious area
- Lower average slopes
- Groundwater tables closer to the ground surface
- Immediate proximity to the impaired waters of Flat Creek and the Swannanoa River



Parts of this area would be served by the proposed East and West Basin plans that are part of this master plan. Those plans, when implemented, will address many of the street and other nuisance flooding issues in the area, allowing the distributed SCM initiative in this neighborhood to work with those drainage plans and to focus on water quality improvements. In particular, SCMs implemented in this neighborhood should focus on reducing sediment and bacteria delivered to Flat Creek, two constituents responsible for the impairment of Flat Creek and the Swannanoa River.

Components:

- Rainwater harvesting systems, rain Gardens and infiltration basins on private property

Ordinance & SWMP Alignment



Clarify language and
definitions



Support the Town's
Stormwater Management Plan

Public Benefits

- ✓ Reduces burden on homeowners
- ✓ Simplifies enforcement
- ✓ Prioritizes effective projects
- ✓ Maintains permit compliance
- ✓ Builds trust & sustainability

Planning Board Comments and Recommendation



Define "disturbance" and "impervious"



List types of SCMs allowed to be used for low-density projects, high-density projects



Point to definitions of low and high-density, clarify difference



8.2.9E (3) one resubmittal within 30 days without payment of additional fee



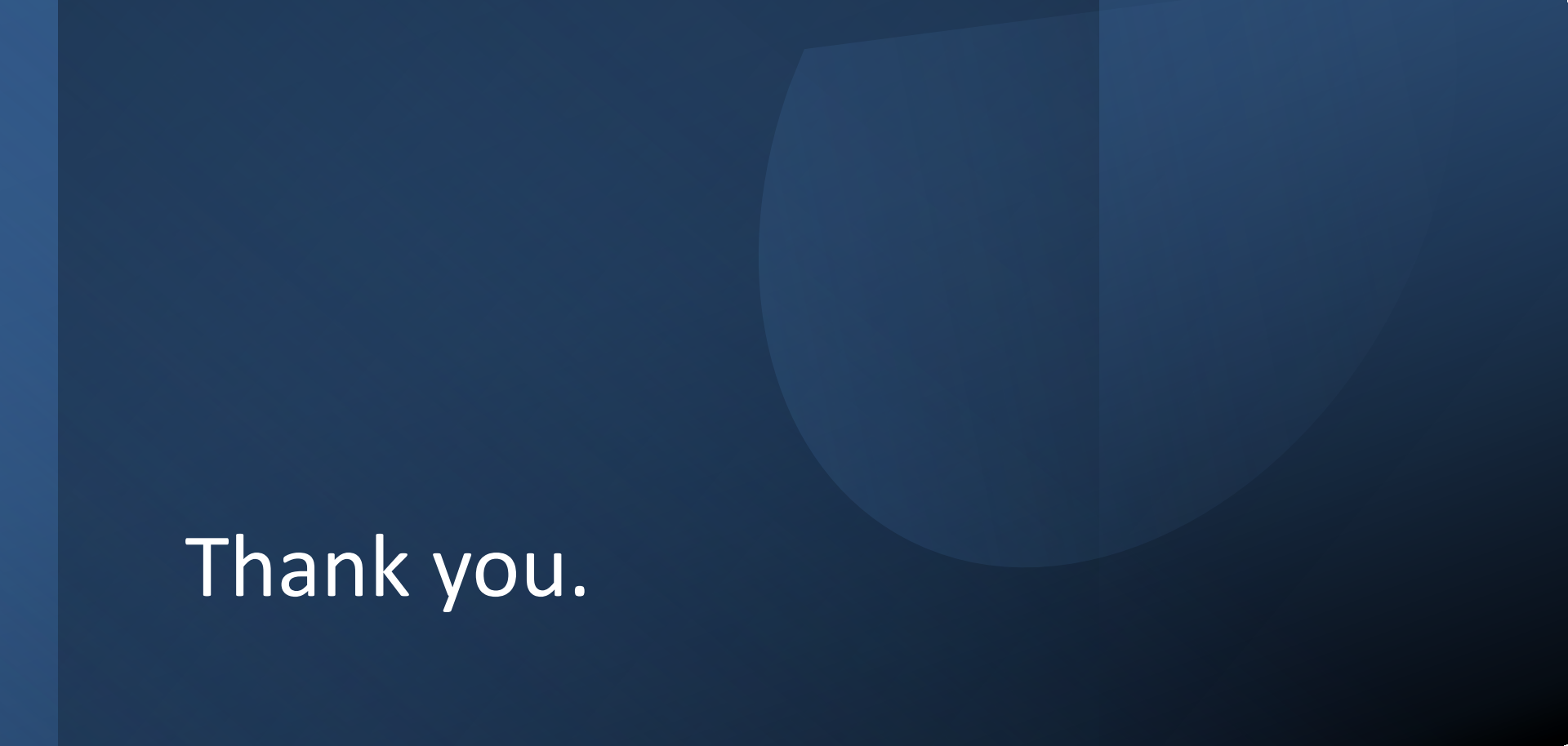
Suggested first inspection after 2 years or less

Staff Recommendation



Staff recommends adopting the proposed ordinance changes to:

- Enhance clarity
- Reduce regulatory burden
- Improve water quality outcomes



Thank you.

Staff is available to answer questions and provide clarification



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, Finance Director **MEETING DATE:** May 12, 2025

AGENDA SECTION: New Business **DEPARTMENT:** Finance

TITLE OF ITEM: Amended Hemphill Grant Project Ordinance and Budget Amendment

SUGGESTED MOTION(S):

Motion to approve the amended Hemphill Grant Project Ordinance and budget amendment as presented.

SUMMARY:

The Town of Black Mountain periodically establishes grant project ordinances for endeavors that involve funding in whole or in part by revenues received from the Federal and/or State Government. The operating or capital expenditure defined within the grant contract may require a time frame greater than one fiscal year to complete. Consequently, the adoption of a grant project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding each fiscal year.

This agenda item is to consider the amendment of the Hemphill Property Grant Project Ordinance and corresponding budget amendments. The Town of Black Mountain has been awarded \$50,000 of funding from the NC Regional Economic Development Reserve Grant to be used toward feasibility study and site planning for the recently acquired property. \$150,000 of total funding will be needed to complete the defined expenditure contained within the grant contract. The additional \$100,000 Funds to fully fund the project was transferred from general fund available fund balance. The Town received a donation from the Estate of Mary Hemphill to be used toward the Hemphill project. Finance requests approval of a budget amendment to transfer the appropriated fund balance of \$100,000 back to the General Fund due to sufficient funds being received from the donation to cover the funds needed to complete the defined expenses within the Grant Contract.

The Finance Department requests approval of a budget amendment to transfer the appropriated fund balance of \$100,000 back to the General Fund due to sufficient funds being received from the donation to cover the defined expenses within the Grant Contract. Staff recommends approving the amended grant project ordinance and budget amendment as presented and recommended.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? Yes

If no, describe how it will be funded. Decrease in budgeted funds and Expenditures within the Grant Project Fund of \$100,000.

Transfer in of \$100,000 within the General Fund.

ATTACHMENTS:

1. Amended Hemphill Grant Project Ordinance and Budget Amendment 2025.05.12

Town of Black Mountain
Hemphill Property Master Planning and Feasibility
Assessment Amended Grant Project Ordinance
Ordinance No: O-25-XX

BE IT ORDAINED by the Town Board of the Town of Black Mountain, North Carolina, that, pursuant to the Local Government Budget and Fiscal Control a local government may, in its discretion, authorize and budget for a capital project or a grant project in a project ordinance adopted pursuant to G.S. 159-13.2. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year; and the following Capital Project Ordinance is hereby adopted as follows:

Section 1. Project Defined

The Town of Black Mountain defines a "Grant Project" as a project financed in whole or in part by revenues received from the Federal and/or State Government for operating or capital proposed as defined by the grant contract. The project may include expenditures that span across multiple fiscal years.

Section 2. Project Authorization

The project authorized is Hemphill Property Master Planning and Feasibility Assessment. Property located at PIN 061965722800000, 061934981600000, 061945761900000, 061956501300000, 061956569400000, Henceforth referred to as the "Hemphill Property". This project includes, but is not limited to, the community engagement, feasibility study and conceptual site plans, master planning, financial analysis and other assessments as approved by the Council on this newly acquired property.

Section 3. Funding

This project is to be funded in part by the North Carolina Session Law 2023-134 – House Bill 259 referenced as follows: Grant 12391 master planning and feasibility studies of newly acquired property. Remaining funding will be transferred in from the Town's general fund balance. The Town has also received a donation from the Estate of Mary Hemphill to be used for the Hemphill Capital Project. Initially the Town transferred 100,000 from the general fund to assist with initial design work for the Hemphill Project, upon receiving the donation the 100,000 will be returned to the general fund.

Section 4. Directives

The officers of this unit are hereby directed to proceed with the capital project within the terms and budget contained herein, as approved by the Governing Board of the Town of Black Mountain.

Section 5. Revenues

The following anticipated Revenues are hereby adopted:

<u>Budgeted Revenues</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
General Fund Transfer In	100,000.00	(100,000.00)	0.00
Regional Economic Development Reserve Grant	50,000.00		50,000.00
The Estate of Mary Hemphill Donation	164,160.00	0.00	164,160.00
Total Funds	\$314,160.00	-\$100,000.00	\$214,160.00

Section 6. Expenditures

The following anticipated appropriations are hereby adopted:

<u>Budgeted Expenses</u>	<u>Prior Anticipated</u>	<u>Change</u>	<u>Amended Expense</u>
Professional Services - Studies and Consultations	\$314,160.00	-\$100,000.00	\$214,160.00
Total Expenses	\$314,160.00	-\$100,000.00	\$214,160.00

Section 7. Records and Reporting

The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 8. Official Copies

Copies of this Capital Project Ordinance shall be furnished to the Town Clerk and shall be held in the Finance Department for the direction of carrying out this project.

Section 9. Project Expiration

This project ordinance expires when the project has been completed and all the Project Funds have been obligated and expended by the Town OR by the date set forth within the grant funding contract, if applicable, whichever occurs sooner.

Duly adopted this 12th day of May 2025.

C. Michael Sobol
Mayor

ATTEST:

Wesley Barker
Town Clerk



TOWN OF BLACK MOUNTAIN BUDGET AMENDMENT REPORT

BE IT ORDAINED by the Town Council of The Town of Black Mountain, North Carolina, that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2025.

Adjustment Number	Summary	Description	Account Number	Account Name	Account Type	Amended Amount
BA25-0000142	Hemphill Property - Transfer Out General Fund	Funds received via donation for Hemphill property.				
		Reimburse General Fund for original transfer	100-7000-48590	Transfers In	Revenue	\$100,000.00
			100-4040-57510	Capital Outlay-Furnishings & Non-Motorized Equip	Expense	\$100,000.00
			260-8803-52010	Professional Services - Studies and Consultations	Expense	\$100,000.00
			260-8803-59510	Transfer Out	Expense	\$100,000.00



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: Tammy Holland, Finance Director **MEETING DATE:** May 12, 2025
AGENDA SECTION: New Business **DEPARTMENT:** Finance
TITLE OF ITEM: Amended Hurricane Helene Grant Project Ordinance and Budget Amendment

SUGGESTED MOTION(S):

Accept Amended Grant Project Ordinance and Budget Amendments as presented.

SUMMARY:

The Town of Black Mountain periodically establishes grant project ordinances for endeavors that involve funding in whole or in part by revenues received from the Federal and/or State Government. The operating or capital expenditure defined within the grant contract may require a time frame greater than one fiscal year to complete. Consequently, the adoption of a grant project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding each fiscal year.

This agenda item is to consider the approval of Hurricane Helene Grant Project budget amendments and the Amended Grant Project Ordinance. The Town of Black Mountain is included in FEMA-4827-DR, North Carolina Disaster Declaration. Initial funding for this Grant project came from the Town's General Fund Balance. This amendment recognizes the following items:

- Transfer from the General fund in the amount of \$40,000 for Dog Park Repairs
- Reallocation of prior authorized expense line funding

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? No

If no, describe how it will be funded. Transfer in from the General Fund

ATTACHMENTS:

1. Budget Amendment Helene
2. Amended Grant Project Ordinance 051225



TOWN OF BLACK MOUNTAIN BUDGET AMENDMENT REPORT

BE IT ORDAINED by the Town Council of The Town of Black Mountain, North Carolina, that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2025.

Adjustment Number	Summary	Description	Account Number	Account Name	Account Type	Amended Amount
BA25-0000145	BAMEND-Dog Park Repair	Transfer Funds from General Fund to Helene for Dog Park Repairs				
			100-4040-57510	Capital Outlay-Furnishings & Non-Motorized Equip	Expense	-\$40,000.00
			100-7000-59510	Transfer Out	Expense	\$40,000.00
			425-8806-48590	Transfers In	Revenue	\$40,000.00
BA25-0000146	BADJ- Helene Reallocate Funds	Reallocate Budget Funds within Expense Lines	425-8806-57210	Capital Outlay - Land Improvements	Expense	\$40,000.00
			425-8806-50100	Salaries - Regular	Expense	\$4,000.00
			425-8806-50102	Salaries - Overtime	Expense	-\$4,400.00
			425-8806-50210	Social Security (Fica Tax) Contributions	Expense	\$300.00
			425-8806-50220	Retirement Employer Contribution- State	Expense	\$100.00
			425-8806-52330	R & M -Utility System	Expense	\$455,000.00
			425-8806-57615	Capital Outlay - Dist Lines and Connections	Expense	-\$455,000.00



Town of Black Mountain Hurricane Helene Amended Grant Project Ordinance

BE IT ORDAINED by the Town Board of the Town of Black Mountain, North Carolina, that, pursuant to the Local Government Budget and Fiscal Control a local government may, in its discretion, authorize and budget for a capital project or a grant project in a project ordinance adopted pursuant to G.S. 159-13.2. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year; the following Grant Project Ordinance O-24-15, originally adopted October 7, 2024, is hereby amended and adopted as follows:

Section 1. Project Defined

The Town of Black Mountain defines a "Grant Project" as a project financed in whole or in part by revenues received from the Federal and/or State Government for operating or capital proposed as defined by the grant contract. The project may include expenditures that span across multiple fiscal years.

Section 2. Project Authorization

The project authorized is Hurricane Helene. Beginning September 25th, 2024 the Town of Black Mountain entered into a State of Emergency within North Carolina. September 28th, 2024 a Federal Major Disaster Declaration for the State of North Carolina due to Tropical Storm Helene was issued. September 30th, 2024 the Town of Black Mountain declared a State of Emergency. FEMA-4827-DR, North Carolina Disaster Declaration as of September 28, 2024, defines the Incident Period as September 25, 2024 and continuing.

Section 3. Funding

This project is to be funded in whole or part by FEMA-4827-DR. FEMA's Office of Response and Recovery has determined that with the President's Emergency Declaration, exigent and emergency circumstances currently exist. FEMA Assistance for this project has been declared for 100% of approved expenditures. For all permanent expenditures related to the storm FEMA has declared 90% reimbursement. The state of NC Emergency Management has declared funding of 10% to cover the remaining unreimbursed amounts from FEMA. Funding may be advanced from other Town of Black Mountain Funds for the purpose of making payments as due. Reimbursement requests should be made to any applicable grantor agency following the regulations and rules of the grant.

Town of Black Mountain Operating Fund Transfers:

- Initial Funding for this project will need to be provided by a budget amendment from the General Fund-Fund Balance. In the case of funding that is not needed due to other funding sources, the Town will transfer unneeded funds transferred from the General Fund back to the general fund.
- The board approved in the January agenda meeting to Transfer funding from the general fund to the Helene Project to cover costs to Veteran Park Fencing in the amount of \$121,000.
- Board Approved within March 2025 meeting a budget amendment to transfer \$300,000 for the Hilltop Road Repairs \$100,0000 from the Powell Bill Fund and \$200,000 from the General Fund Street Department.
- Requested Funding transfer from the General Fund to make needed repairs to the Dog Park in the amount of \$40,000 May 2025 meeting.

NCLM is the Town's insurance carrier. The Town has received insurance proceeds totaling \$2,255,184.47 to date:

- An advanced payment of \$1,500,000 has been received by NCLM to assist in immediate needs while our insurance claims are being completed. This payment will be deducted from the insurance proceeds to be received for flood damage to Town buildings.
- Total Vehicle and Equipment Insurance Claims paid to date from NCLM equal \$755,184.47

Donations

- The Town has received a donation in the amount of \$67,000 from Black Mountain Presbyterian Church to assist in the repairs at Veteran's Park

FEMA Funding Received to Date:

- The Town has received a payment of 50% of the emergency expenditures submitted. The total amount received was \$860,666.18.

State Funding Has Been Awarded for the Following Items:

- NC DEQ Division of Water Infrastructure project Number HEL-0003 provides funding up to the amount of \$3,000,000, repayable at 0% interest. The DEQ Water Infrastructure Emergency Bridge Loan Program established in Session Law 2024-53 Section 4C.7 has been awarded to the Town.
- The Town has also been awarded an additional \$200,000 in grant funds for engineering assessment, planning and design work associated with the Water Infrastructure Emergency Bridge Loan.
- NC Department of State Treasurer has awarded a loan in the amount of \$705,703.37 to aid with Cashflow due to Hurricane Helene

Section 4. Directives

The officers of the Town of Black Mountain are hereby directed to proceed with the federal and/or state grant project within the terms of the rules and regulations of those grants and the budget contained. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the funds appropriated.

Section 5. Revenues

The following anticipated revenues are hereby adopted:

<u>Budgeted Revenues</u>	<u>Prior Authorized</u>	<u>Change</u>	<u>Amended Funding</u>
Transfer In From General Fund	2,321,000.00	40,000.00	2,361,000.00
Transfer In From Powell Bill Fund	100,000.00	0.00	100,000.00
Grant Revenue Federal - FEMA Emergency Expenditures	860,666.18	0.00	860,666.18
NCDEQ - Infrastructure Loan	3,000,000.00	0.00	3,000,000.00
NCDEQ - Infrastructure Tech Assist Grant	200,000.00	0.00	200,000.00
NCDEST - Cashflow Loan	705,703.37	0.00	705,703.37
Contributions/Donations	67,000.00	0.00	67,000.00
Insurance Proceeds	2,255,184.47	0.00	2,255,184.47
Total Funds	\$9,509,554.02	\$40,000.00	\$9,549,554.02

Section 6. Expenditures

The following anticipated appropriations are hereby adopted:

<u>Budgeted Expenses</u>	<u>Prior Anticipated</u>	<u>Change</u>	<u>Amended Expense</u>
Salaries and Benefits	\$501,500.00	\$0.00	\$501,500.00
Protective Clothing	\$10,909.80	\$0.00	\$10,909.80
Professional Services - Engineering and Design	\$204,000.00	\$0.00	\$204,000.00
Professional and Technical Service	\$50,100.00	\$0.00	\$50,100.00
Contract Services	\$2,405,793.66	\$0.00	\$2,405,793.66
Technology and Software License	\$1,000.00	\$0.00	\$1,000.00
R&M Buildings	\$16,261.58	\$0.00	\$16,261.58
R&M Grounds/Parks/Greenways	\$3,500.00	\$0.00	\$3,500.00
R&M Equipment	\$21,614.43	\$0.00	\$21,614.43
R&M Vehicle	\$2,375.96	\$0.00	\$2,375.96
R&M Streets/Sidewalks/Curb	\$26,989.76	\$0.00	\$26,989.76
R&M Utility System	\$142,500.00	\$455,000.00	\$597,500.00
Office Supplies	\$2,086.54	\$0.00	\$2,086.54
Medical Supplies	\$710.49	\$0.00	\$710.49
Non-Capital Equipment and Furniture	\$56,934.34	\$0.00	\$56,934.34
Lease Rental -Equipment	\$144,150.00	\$0.00	\$144,150.00
Emergency Preparedness	\$1,037.13	\$0.00	\$1,037.13
Miscellaneous Expense	\$34,010.03	\$0.00	\$34,010.03
Capital Outlay - Land Improvements	\$188,000.00	\$40,000.00	\$228,000.00
Capital Outlay - Vehicles	\$2,251,080.30	\$0.00	\$2,251,080.30
Capital Outlay - Furnishings & Non-Motorized Equip	\$95,000.00	\$0.00	\$95,000.00
Capital Street/Bridge/Sidewalk	\$350,000.00	\$0.00	\$350,000.00
Capital Outlay - Dist Lines and Connections	\$2,500,000.00	-\$455,000.00	\$2,045,000.00
Capital Outlay - Plants, Pump Stations, Sub Stations	\$500,000.00	\$0.00	\$500,000.00
Total Expenses	\$9,509,554.02	\$40,000.00	\$9,549,554.02

Section 7. Records and Reporting

The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable

Section 8. Official Copies

Copies of this Capital Project Ordinance shall be furnished to the Town Clerk and shall be held in the Finance Department for the direction in carrying out this project.

Section 9. Project Expiration

This project ordinance expires when the project has been completed and Project Funds have been obligated and expended for all project expenditures by the Town OR by the date set forth within the grant funding contract, if applicable, whichever occurs sooner.

Duly adopted this 12th day of May 2025.

C. Michael Sobol
Mayor

ATTEST:

Wesley Barker
Town Clerk



TOWN OF BLACK MOUNTAIN AGENDA ITEM SUMMARY

SUBMITTER: John Coffey, Fire Chief **MEETING DATE:** May 12, 2025
AGENDA SECTION: New Business **DEPARTMENT:** Fire Department
TITLE OF ITEM: Consideration of a Fire Department Cost Recovery Program

SUGGESTED MOTION(S):

Motion to Approve the Ordinance Establishing and Implementing a Program to Charge Mitigation Rates for the Deployment of Emergency and Non-Emergency Services by the Fire Department for Services Provided/Rendered and to authorize the Town Manager, or their designee, to sign appropriate paperwork to enter into a service agreement with Fire Recovery USA, LLC.

SUMMARY:

The Town of Black Mountain is committed to maintaining high-quality emergency services for its residents, including fire suppression, rescue, hazardous material incident responses, and emergency medical care. Increasing costs associated with emergency response services have placed a significant financial burden on the town's funding and taxpayer base.

Many municipalities have implemented cost recovery programs to supplement the expense of emergency response services, particularly in cases where the services are rendered due to preventable actions, out-of-city motorists, or incidents involving hazardous materials.

Fire Recovery USA is a reputable third-party provider specializing in cost recovery services for fire departments and offers a no-cost, performance-based model that ensures cities recover eligible expenses without upfront costs. Black Mountain Fire Department has reviewed Fire Recovery USA's services and supports the implementation of this program to support ongoing operational readiness and financial sustainability. A copy of the draft ordinance and a copy of the services agreement with Fire Recovery USA is attached for your review.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

1. Draft_Ordinance to Establish a Cost Recovery Mitigation Program for BMFD_2025.05.12
2. BMFD Service Agreement with Fire Recovery USA_draft_2025.05.12

ORDINANCE NO: _____

AN ORDINANCE ESTABLISHING AND IMPLEMENTING A PROGRAM TO CHARGE MITIGATION RATES FOR THE DEPLOYMENT OF EMERGENCY AND NON-EMERGENCY SERVICES BY THE FIRE DEPARTMENT FOR SERVICES PROVIDED/RENDERED BY/FOR THE TOWN OF BLACK MOUNTAIN FIRE DEPARTMENT.

WHEREAS, the emergency and non-emergency services response activity to incidents continues to increase each year; Environmental Protection requirements involving equipment and training, and Homeland Security regulations involving equipment and training, creating additional demands on all operational aspects of the fire department services; and

WHEREAS, the fire department has investigated different methods to maintain a high level of quality of emergency and non-emergency service capability throughout times of constantly increasing service demands, where maintaining an effective response by the fire department decreases the costs of incidents to insurance carriers, businesses, and individuals through timely and effective management of emergency situations, saving lives and reducing property and environmental damage; and

WHEREAS, raising real property tax to meet the increase in service demands would not be fair when the responsible party(s) should be held accountable for their actions; and

WHEREAS, the City Council of the Black Mountain Fire Department desires to implement a fair and equitable procedure by which to collect said mitigation rates and shall establish a billing system in accordance with applicable laws, regulations and guidelines; Now, Therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE BLACK MOUNTAIN FIRE DEPARTMENT:

SECTION 1: The Black Mountain Fire Department shall initiate mitigation rates for the delivery of emergency and non-emergency services by the fire department for personnel, supplies and equipment to the scene of emergency and non-emergency incidents as listed in “EXHIBIT A”. The mitigation rates shall be based on actual costs of the services and that which is usual, customary and reasonable (UCR) as shown in “EXHIBIT A”, which may include any services, personnel, supplies, and equipment and with baselines established by addendum to this document.

SECTION 2: A claim shall be filed to the responsible party(s) through their insurance carrier. In some circumstances, the responsible party(s) will be billed directly.

SECTION 3: The fire department’s City Council may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with

this Section, as they may deem necessary or expedient in respect to billing for these mitigation rates or the collection thereof.

SECTION 4: It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in accordance with all legal requirements, and the Codified Ordinances of the City Council.

SECTION 5: This Ordinance shall take effect thirty days (30) from the date of adoption as permitted by law.

SECTION 6: The Mitigation Rates lists in Exhibit A will increase annually based on the annual percentage increase in the Consumer Price Index (CPI), as developed by the Bureau of Labor Statistics of the U.S. Department of Labor. Rate adjustments will occur on the anniversary date of this ordinance/resolution to keep the fire department's cost recovery program in conformity with increasing operating expenses.

THE ABOVE WAS PASSED

Yea _____

Nay _____

Certified by the Clerk: _____

Signature: _____

Name (printed): _____

Title: _____

Date: _____

EXHIBIT A

MITIGATION RATES BASED ON PER HOUR

The mitigation rates below are average “billing levels”, and are typical for the incident responses listed, however, when a claim is submitted, it may be itemized and based on the actual services provided.

These rates are based on actual costs using amortized schedules for apparatus (including useful life, equipment, repairs, and maintenance). Labor rates include an average department's actual burdened labor costs and not just a firefighter's wage. These include wages, retirement, benefits, workers comp, etc.

MOTOR VEHICLE INCIDENTS

Level 1 - \$602.00

Provide hazardous materials assessment and scene stabilization. This will be the most common “billing level”. This occurs almost every time the fire department responds to an accident/incident.

Level 2 - \$687.00

Includes Level 1 services as well as clean up and material used (sorbents) for hazardous fluid clean up and disposal. We will bill at this level if the fire department has to clean up any gasoline or other automotive fluids that are spilled as a result of the accident/incident.

Level 3 – CAR FIRE - \$838.00

Provide scene safety, fire suppression, breathing air, rescue tools, hand tools, hose, tip use, foam, structure protection, and clean up gasoline or other automotive fluids that are spilled as a result of the accident/incident.

ADD-ON SERVICES:

Extrication - \$1,811.00

Includes heavy rescue tools, ropes, airbags, cribbing etc. This charge will be added if the fire department has to free/remove anyone from the vehicle(s) using any equipment. We will not bill at this level if the patient is simply unconscious and fire department is able to open the door to access the patient. This level is to be billed only if equipment is deployed.

Creating a Landing Zone - \$553.00

Includes Air Care (multi-engine company response, mutual aid, helicopter). We will bill at this level any time a helicopter landing zone is created and/or is utilized to transport the patient(s).

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates, for each incident using, itemized rates deemed usual,

customary and reasonable (UCR). These incidents will be billed, itemized per apparatus, per personnel, plus products and equipment used.

HAZMAT

Level 1 - \$972.00

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, set-up and command.

Level 2 - \$3,473.00

Intermediate Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, set-up and command, Level A or B suit donning, breathing air and detection equipment. Set-up and removal of decon center.

Level 3 – \$8,199.00

Advanced Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, first responder set-up and command, Level A or B suit donning, breathing air and detection equipment and robot deployment. Set-up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used at scene. Includes 3 hours of on scene time - **each additional hour @ \$381.00 per HAZMAT team.**

FIRES

Assignment - \$554.00 per hour, per engine / \$693.00 per hour, per truck

Includes:

- Scene Safety
- Investigation
- Fire / Hazard Control

This will be the most common “billing level”. This occurs almost every time the fire department responds to an incident.

OPTIONAL: A fire department has the option to bill each fire as an independent event with custom mitigation rates.

Itemized, per person, at various pay levels and for itemized products use.

ILLEGAL FIRES

Assignment - \$554.00 per hour, per engine / \$693.00 per hour, per truck

When a fire is started by any person or persons that requires a fire department response during a time or season when fires are regulated or controlled by local or state rules, provisions or ordinances because of pollution or fire danger concerns, such person or persons will be liable for the fire department response at a cost not to exceed the actual expenses incurred by the fire department to respond and contain the fire. Similarly, if a fire is started where permits are required for such a fire and the permit was not obtained and the fire department is required to respond to contain the fire the responsible party will be liable for the response at a cost not to exceed the actual expenses incurred by the fire department. The actual expenses will include direct labor, equipment costs and any other costs that can be reasonably allocated to the cost of the response.

WATER INCIDENTS

Level 1

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, first responder set-up and command, scene safety and investigation (including possible patient contact, hazard control). This will be the most common “billing level”. This occurs almost every time the fire department responds to a water incident.

Billed at \$554 plus \$68 per hour, per rescue person.

Level 2

Intermediate Response: Includes Level 1 services as well as clean up and material used (sorbents), minor hazardous clean up and disposal. We will bill at this level if the fire department has to clean up small amounts of gasoline or other fluids that are spilled as a result of the incident.

Billed at \$1,110 plus \$68 per hour, per rescue person.

Level 3

Advanced Response: Includes Level 1 and Level 2 services as well as D.A.R.T. activation, donning breathing apparatus and detection equipment. Set up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used at scene.

Billed at \$2,747 plus \$68 per hour per rescue person, plus \$134 per hour per HAZMAT team member.

Level 4

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates for each incident using itemized rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized, per trained rescue person, plus rescue products used.

BACK COUNTRY OR SPECIAL RESCUE

Itemized Response: Each incident will be billed with custom mitigation rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized per apparatus per hour, per trained rescue person per hour, plus rescue products used.

Minimum billed \$554 plus \$68 per hour, per rescue person. Additional rates of \$554 per hour per response vehicle and \$68 per hour per rescue person.

CHIEF RESPONSE

This includes the set-up of Command, and providing direction of the incident. This could include operations, safety, and administration of the incident.

Billed at \$347 per hour.

MISCELLANEOUS / ADDITIONAL TIME ON-SCENE

ADDITIONAL TIME ON-SCENE (for all levels of service)

Engine billed at \$554 per hour.

Truck billed at \$693 per hour.

Miscellaneous equipment billed at \$416.

MITIGATION RATE NOTES

The mitigation rates above are average “billing levels” for one hour of service, and are typical for the incident responses listed, however, when a claim is submitted, it may be itemized and based on the actual services provided.

These average mitigation rates were determined by itemizing costs for a typical run (from the time a fire apparatus leaves the station until it returns to the station) and are based on the actual costs, using amortized schedules for apparatus (including useful life, equipment, repairs, and maintenance) and labor rates (an average department’s “actual personnel expense” and not just a firefighter’s basic wage). The actual personnel expense includes costs such as wages, retirement, benefits, workers comp, insurance, etc.

SERVICES AGREEMENT

This Services Agreement ("Agreement") is made effective as of _____, 2024 ("Effective Date"), by and between **FIRE RECOVERY USA, LLC**, a California limited liability company ("Company"), and **Black Mountain Fire Department**, ("Client"). The Company and Client are referred to herein individually as a "party" and collectively as the "parties."

RECITALS

WHEREAS, Company engages in the business of performing billing services ("Company Services") for United States Fire Departments in connection with the motor vehicle incidents and other emergency incidents at which the Client provides emergency services: and

WHEREAS, Client seeks the services of Company to assist with the billing for services that Client provides in connection with motor vehicle incidents and other emergency incidents; and

WHEREAS, Company and Client desire to enter into this Agreement to memorialize their agreements regarding the Company Services to be provided to Client.

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Client agree as follows:

ARTICLE 1 ENGAGEMENT

1.1. Engagement: Client hereby engages Company to provide the Company Services described in Article 4 herein, and Client hereby accepts such engagement, all on the terms and conditions set forth herein. Company will determine the method, detail and means of performing the services detailed below.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties of Company: Company hereby represents and warrants to Client that, at all times during the term of this Agreement, Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California.

2.2. Representations and Warranties of Client: Client hereby represents and warrants to Company that, at all times during the term of this Agreement, Client is, or Governs, or Contracts with an organized fire department established pursuant to the laws and ordinances of the state in which Client is located.

ARTICLE 3 COMPANY STATUS AND QUALIFICATIONS

3.1. Independent Contractor: Company enters into this Agreement, and will remain throughout the term of the Agreement, as an independent contractor. Company agrees that it will not become an employee, partner, agent or principal of Client while this Agreement is in effect.

3.2. Payment of Income Taxes: Company is responsible for paying when due all income taxes, including estimated taxes, incurred as a result of the compensation paid by Client to Company for services rendered under this Agreement. On request, Company will provide Client with proof of timely payment. Company agrees to indemnify Client for any claims, costs, losses, fees, penalties, interest, or damages suffered by Client resulting from Company's failure to comply with this provision.

3.3. Use of Employees or Subcontractors: Company may, at Company's own expense, use any employees or subcontractors as Company deems necessary to perform the services required of Company by this Agreement. Client may not control, direct, or supervise Company's employees or subcontractors in the performance of those services.

3.4. Qualifications: Company represents that it is qualified and has the skills necessary to perform the services under this Agreement in a competent and professional manner, without the advice or direction of Client.

3.5. Ownership Interest: Company will have no ownership interest in Client.

3.6. No Benefit Contributions: Company shall have no obligation under this Agreement to compensate or pay applicable taxes or provide employee benefits of any kind to any person employed or retained by Client.

3.7. Attorney-in-Fact: Client appoints Company as Client's attorney-in-fact for the following purposes:

- (a) Billing and Collections: To bill and collect ("Collections") all revenue earned by and due to Client, in connection with Client's provision of emergency services provided/rendered at the sites of motor vehicle incidents and other emergency incidents, and to receive all Collections on Client's behalf and to sue for and give satisfaction for monies due on account and to withdraw any claims, suits, or proceedings pertaining to or arising out of Company's or Client's right to collect such amounts; and
- (b) Endorsement: To take possession of and endorse in Client's name any notes, checks, money orders, and any other instruments received as Collections.

ARTICLE 4 GENERAL RESPONSIBILITIES OF COMPANY

4.1. Minimum Amount of Service: Company agrees to devote as much time and attention to the performance of the Company Services under this Agreement as may be, in Company's sole discretion, required to accomplish the tasks described herein to accomplish the results for which the Company is responsible under this Agreement.

4.2. Company Services: Company agrees to perform the Company Services as set forth in the "List of Company Services" attached hereto as Schedule "A" and incorporated herein by reference; including those additional services requested by Client and accepted in writing by the Company during the term of this Agreement.

4.3. Non-Exclusive Relationship: Company may represent, perform services for, and contract with as many additional clients, persons, or companies as Company, in Company's sole discretion, sees fit.

4.4. Time and Place of Performing Work: Company may perform the services under this Agreement at any suitable time and location Company chooses.

4.5. Materials and Equipment: Company will supply all materials and equipment required to perform the services under this Agreement.

4.6. Workers' Compensation: Company agrees to provide workers' compensation insurance for Company and Company's employees and agents and agrees to hold harmless and indemnify Client for any and all claims arising out of any injury, disability, or death of any of Company's employees or agents.

4.7. Assignment: Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Company without the prior written consent of Client, which consent shall not be unreasonably withheld.

ARTICLE 5 COMPENSATION OF COMPANY

5.1. Compensation for Company Services: All Company Services provided pursuant to this Agreement will be provided in accordance with the terms, including compensation amounts and schedule of remittance, set forth in the "List of Company Services," attached hereto as Schedule A.

5.2. The provisions of Article 11 of this Agreement will govern any dispute associated with compensation.

ARTICLE 6 OBLIGATIONS OF CLIENT

6.1. Cooperation of Client: The Client agrees to comply with all reasonable requests of Company and provide access to all documents reasonably necessary to the performance of Company's duties under this Agreement. The Client shall be responsible for initially insuring, and continuing to review, local and state laws in the Client's jurisdiction to assure adequate legal authority for Company to engage in the Services described herein on behalf of Client.

6.2. Assignment: Once a run is assigned to Company for processing, Company will pursue collection until all efforts have been exhausted. While Company is pursuing payment on a claim Client is precluded from assigning any duties or obligations under this Agreement to any other party, without the written consent of Company. Client may not negotiate a settlement of a run Company is processing without Company's written consent to the terms of the settlement and compensation due to Company for processing the run. Once Company has determined a run is not collectible it will either be archived and closed or sent to a collection agency (only if Client chooses to do so). Sending an account to collection incurs additional fees to Client. If payment is received from a collection agency, the amount received will be posted to Client's account by Company. Company will reimburse Client at the rate set forth in Schedule A, List of Company Services for that particular run, minus any additional fees from the collection agency.

ARTICLE 7 CLIENT AUTHORIZATION

7.1. Authorization: Notwithstanding other provisions of this Agreement, Company shall obtain authorization from Client prior to performing any of the following:

- (a) The sale conveyance, transfer, pledge exchange, assignment, hypothecation, or encumbrance of Client's interest in any sums owed to Client; and
- (b) All other limitations as stated by the terms of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT

8.1. Termination on Notice: Notwithstanding any other provision of this Agreement, either party may terminate this Agreement at any time by giving thirty days (30) written notice to the other party. Unless earlier terminated as set forth below, this Agreement shall be effective as of the date first set out above and shall continue for a period of one (1) year thereafter. This Agreement shall automatically renew for successive one (1) year periods, unless either party provides written notification to the other party of its decision not to renew this Agreement. Any runs submitted for processing to Company prior to the date of the notice of termination will continue to be processed under the terms of the List of Company Services set forth in this Agreement.

8.2. Termination on Occurrence of Stated Events: This Agreement will terminate automatically on the occurrence of any of the following events;

- (a) Bankruptcy or insolvency of either party;
- (b) The assignment of this Agreement by either party without the consent of the other party; the parties agree that neither party will unreasonably withhold consent to such an assignment.

8.3. Termination for Default: If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-breaching party may terminate this Agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five days (5) after mailing of notice, whichever occurs first. For the purposes of this paragraph, material breach of this Agreement includes, but is not limited to, the following:

- (a) Company's failure to complete the services specified in the Description of Services;
- (b) Client's material breach of any representation, warranty or agreement contained in this Agreement;
- (c) Company's material breach of any representation, warranty or agreement contained in this Agreement;
- (d) If the Fire Department does not maintain a minimum of 6 billable runs per year, the Fire Department will be subject to a minimum account service fee of \$250 annually or termination of the account.

ARTICLE 9 PROPRIETARY RIGHTS

9.1. Confidential Information: Any written, printed, graphic, or electronically or magnetically recorded information furnished by Client for Company's use are the sole property of Client. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning the Client's employees, products, services, prices, operations, and subsidiaries. Company will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with the Client's approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to Company's employees, agents, and subcontractors. On termination of this Agreement, Company will return any confidential information in Company's possession to Client.

9.2 Confidential Information: Any written, printed, graphic, electronically or magnetically recorded information, computer-based hardware, software, applications, software scripts, or software links furnished by Company for Client's use are the sole property of Company. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning the Company's employees, products, services, prices, operations, and subsidiaries. Client will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with the Company's approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to Client's employees, agents, and subcontractors. On termination of this Agreement, Client will return any confidential information in Client's possession to Company.

ARTICLE 10 INDEMNIFICATION

10.1. Indemnification: To the extent permitted by applicable law, the Company will indemnify and hold the Client harmless from and against any and all loss, damage, liability, claims and/or injury resulting from all negligent actions performed by the Company, or its agents on the Company's behalf, in connection with this Agreement. However, this indemnification shall not apply with respect to any legal cause, action or consequential liability or losses as a result from inaccurate or incomplete information or unfounded or unreasonable submissions furnished to the Company by the Client nor shall it apply to any act, omission or negligence of the Client.

**ARTICLE 11
GENERAL PROVISIONS**

11.1. Governing Law: This Agreement shall be governed in all respects by the laws of the State of California, without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction that would cause the application of the laws of any jurisdiction other than the State of California).

11.2. Entire Agreement: This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understanding of the parties.

11.3. Successors and Assigns: Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. No party may assign any of its rights or obligations hereunder without the express written consent of the other party hereto, which consent may not be unreasonably withheld; provided, however, any party may assign any and all of its rights and interests hereunder to one or more of its affiliates and designate one or more of its affiliates to perform its obligations hereunder; provided, however, that such party remains liable for full and total performance of its obligations hereunder.

11.4. Notices: Any notices authorized to be given hereunder shall be in writing and deemed given, if delivered personally or by overnight courier, on the date of delivery, if a Business Day, or if not a business day, on the first Business Day following delivery, or if mailed, three days after mailing by registered or certified mail, return receipt requested, and in each case, addressed, as follows:

If to the Company to:

Fire Recovery USA, LLC
2271 Lava Ridge Court, Suite 120
Roseville CA 95661
Attention: Craig Nagler

with a copy to:

The Watkins Firm, APC
9915 Mira Mesa Boulevard, Suite 130
San Diego, CA 92131
Attention: Chris Popov, Esq.

If to Client to:

106 Montreat Road
Black Mountain, NC 28711

with a copy to:

Attention: _____

Or, if delivered by telecopy, on a Business Day before 4:00 PM local time of addressee, on transmission confirmed electronically, or if at any other time or day on the first Business Day succeeding transmission confirmed electronically, to the facsimile numbers provided above, or to such other address or telecopy number as any party shall specify to the other, pursuant to the foregoing notice provisions. When used in this Agreement, the term "Business Day" shall mean a day other than a Saturday, Sunday or a Federal Holiday.

11.5. Waiver; Amendments: This Agreement sets forth the entire agreement of the parties respecting the subject matter hereof, (ii) supersede any prior and contemporaneous

understandings, agreements, or representations by or among the parties, written or oral, to the extent they related in any way to the subject matter hereof, and (iii) may not be amended orally, and no right or obligation of any party may be altered, except as expressly set forth in a writing signed by such party.

11.6. Counterparts: This Agreement may be signed in several counterparts.

11.7. Expenses: Each party shall bear its own expenses incurred with respect to the preparation of this Agreement and the consummation of the transactions contemplated hereby.

11.8. Arbitration:

(a) If at any time there shall be a dispute arising out of or relating to any provision of this Agreement, any Transaction Document or any agreement contemplated hereby or thereby, such dispute shall be submitted for binding and final determination by arbitration in accordance with the regulations then obtaining of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) resulting from such arbitration shall be in writing, and shall be final and binding upon all involved parties. The site of any arbitration shall be at a site agreed to by the parties and the arbitration decision can be enforced in a "court of competent jurisdiction".

(b) This arbitration clause shall survive the termination of this Agreement, any Transaction Document and any agreement contemplated hereby or thereby.

11.9. Waiver of Jury Trial; Exemplary Damages: THE PARTIES HERETO HEREBY WAIVE THEIR RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY TRANSACTION DOCUMENT. NO PARTY SHALL BE AWARDED PUNITIVE OR OTHER EXEMPLARY DAMAGES RESPECTING ANY DISPUTE ARISING UNDER THIS AGREEMENT OR ANY TRANSACTION DOCUMENT CONTEMPLATED HEREBY.

11.10 Cooperative Purchases: This Agreement may be used by other government agencies. Company has agreed to offer similar serves to other agencies under the same or similar terms and conditions as stated herein except that the revenue share percentage (Compensation) may be negotiated between the Company and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The City/County/or Client/Protection District will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchase by other agencies.

Signatures on following page:

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

COMPANY:

FIRE RECOVERY USA, LLC.
a California limited liability company

Signature: _____

Name: M. Craig Nagler

Title: Manager

CLIENT:

BLACK MOUNTAIN FIRE DEPARTMENT

Signature: _____

Name (printed): _____

Title: _____

SCHEDULE A

LIST OF COMPANY SERVICES

1. Company agrees to bill the responsible party on the Client's behalf for services provided/rendered during motor vehicle incidents and other emergency incidents. The Mitigation Rates lists in Exhibit A will increase annually based on the annual percentage increase in the Consumer Price Index (CPI), as developed by the Bureau of Labor Statistics of the U.S. Department of Labor. Rate adjustments will occur to keep the fire department's cost recovery program in conformity with increasing operating expenses.
2. Company will provide, as a normal matter of business; entry of claims and submission to the responsible party, collections of monies deemed due to the Client, payments of the agreed upon percentage of said monies to Client, and reporting of progress.
3. Company agrees to bill to the best of its ability all claims provided to Company by the Client.
4. Company will not begin litigation against a person, entity, or insurance carrier without prior written approval by the Client.
5. Company agrees to reimburse Client a portion of the monies collected at a rate of 78% (seventy-eight percent) of the total monies collected on the Client's claims. Total monies collected will be net, after any credit card processing fees (charged at 4%) or any collection agency fees. If Client submits a claim to Company and later wants to cancel the claim, Client may be subject to a billing fee. If Client agrees to submit a claim to Company's collection agency and later wants to remove it from collection status, Client may be subject to a fee of up to 35% of the amount of the claim to compensate for efforts made to collect the claim.
6. Company agrees to pay these monies collected to the Client on a monthly basis, within seven (7) working days after the close and accounting of the monthly billing cycle.
7. Company agrees to make available reports via a password protected website to the Client which detail billable claims outstanding (which are claims submitted, but not yet completed) and claims completed in the prior billing cycle.
8. Company will not be responsible for, nor accept any liability for, any erroneous, invalid, or illegal procedure codes or claims submitted to Company by the Client on the Run Sheets.

EXHIBIT A

MITIGATION RATES

BASED ON PER HOUR

The mitigation rates below are average “billing levels”, and are typical for the incident responses listed, however, when a claim is submitted, it may be itemized and based on the actual services provided.

These rates are based on actual costs using amortized schedules for apparatus (including useful life, equipment, repairs, and maintenance). Labor rates include an average department’s actual burdened labor costs and not just a firefighter’s wage. These include wages, retirement, benefits, workers comp, etc.

MOTOR VEHICLE INCIDENTS

Level 1 - \$602.00

Provide hazardous materials assessment and scene stabilization. This will be the most common “billing level”. This occurs almost every time the fire department responds to an accident/incident.

Level 2 - \$687.00

Includes Level 1 services as well as clean up and material used (sorbents) for hazardous fluid clean up and disposal. We will bill at this level if the fire department has to clean up any gasoline or other automotive fluids that are spilled as a result of the accident/incident.

Level 3 – CAR FIRE - \$838.00

Provide scene safety, fire suppression, breathing air, rescue tools, hand tools, hose, tip use, foam, structure protection, and clean up gasoline or other automotive fluids that are spilled as a result of the accident/incident.

ADD-ON SERVICES:

Extrication - \$1,811.00

Includes heavy rescue tools, ropes, airbags, cribbing etc. This charge will be added if the fire department has to free/remove anyone from the vehicle(s) using any equipment. We will not bill at this level if the patient is simply unconscious and fire department is able to open the door to access the patient. This level is to be billed only if equipment is deployed.

Creating a Landing Zone - \$553.00

Includes Air Care (multi-engine company response, mutual aid, helicopter). We will bill at this level any time a helicopter landing zone is created and/or is utilized to transport the patient(s).

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates, for each incident using, itemized rates deemed usual, customary and

reasonable (UCR). These incidents will be billed, itemized per apparatus, per personnel, plus products and equipment used.

HAZMAT

Level 1 - \$972.00

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, set-up and command.

Level 2 - \$3,473.00

Intermediate Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, set-up and command, Level A or B suit donning, breathing air and detection equipment. Set-up and removal of decon center.

Level 3 – \$8,199.00

Advanced Response: Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, first responder set-up and command, Level A or B suit donning, breathing air and detection equipment and robot deployment. Set-up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used at scene. Includes 3 hours of on scene time - **each additional hour @ \$381.00 per HAZMAT team.**

FIRES

Assignment - \$554.00 per hour, per engine / \$693.00 per hour, per truck

Includes:

- Scene Safety
- Investigation
- Fire / Hazard Control

This will be the most common “billing level”. This occurs almost every time the fire department responds to an incident.

OPTIONAL: A fire department has the option to bill each fire as an independent event with custom mitigation rates.

Itemized, per person, at various pay levels and for itemized products use.

ILLEGAL FIRES

Assignment - \$554.00 per hour, per engine / \$693.00 per hour, per truck

When a fire is started by any person or persons that requires a fire department response during a time or season when fires are regulated or controlled by local or state rules, provisions or ordinances because of pollution or fire danger concerns, such person or persons will be liable for the fire department response at a cost not to exceed the actual expenses incurred by the fire department to respond and contain the fire. Similarly, if a fire is started where permits are required for such a fire and the permit was not obtained and the fire department is required to respond to contain the fire the responsible party will be liable for the response at a cost not to exceed the actual expenses incurred by the fire department. The actual expenses will include direct labor, equipment costs and any other costs that can be reasonably allocated to the cost of the response.

WATER INCIDENTS

Level 1

Basic Response: Claim will include engine response, first responder assignment, perimeter establishment, evacuations, first responder set-up and command, scene safety and investigation (including possible patient contact, hazard control). This will be the most common “billing level”. This occurs almost every time the fire department responds to a water incident.

Billed at \$554 plus \$68 per hour, per rescue person.

Level 2

Intermediate Response: Includes Level 1 services as well as clean up and material used (sorbents), minor hazardous clean up and disposal. We will bill at this level if the fire department has to clean up small amounts of gasoline or other fluids that are spilled as a result of the incident.

Billed at \$1,110 plus \$68 per hour, per rescue person.

Level 3

Advanced Response: Includes Level 1 and Level 2 services as well as D.A.R.T. activation, donning breathing apparatus and detection equipment. Set up and removal of decon center, detection equipment, recovery and identification of material. Disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used at scene.

Billed at \$2,747 plus \$68 per hour per rescue person, plus \$134 per hour per HAZMAT team member.

Level 4

Itemized Response: You have the option to bill each incident as an independent event with custom mitigation rates for each incident using itemized rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized, per trained rescue person, plus rescue products used.

BACK COUNTRY OR SPECIAL RESCUE

Itemized Response: Each incident will be billed with custom mitigation rates deemed usual, customary and reasonable (UCR). These incidents will be billed, itemized per apparatus per hour, per trained rescue person per hour, plus rescue products used.

Minimum billed \$554 plus \$68 per hour, per rescue person. Additional rates of \$554 per hour per response vehicle and \$68 per hour per rescue person.

CHIEF RESPONSE

This includes the set-up of Command, and providing direction of the incident. This could include operations, safety, and administration of the incident.

Billed at \$347 per hour.

MISCELLANEOUS / ADDITIONAL TIME ON-SCENE

ADDITIONAL TIME ON-SCENE (for all levels of service)

Engine billed at \$554 per hour.

Truck billed at \$693 per hour.

Miscellaneous equipment billed at \$416.

MITIGATION RATE NOTES

The mitigation rates above are average “billing levels” for one hour of service, and are typical for the incident responses listed, however, when a claim is submitted, it may be itemized and based on the actual services provided.

These average mitigation rates were determined by itemizing costs for a typical run (from the time a fire apparatus leaves the station until it returns to the station) and are based on the actual costs, using amortized schedules for apparatus (including useful life, equipment, repairs, and maintenance) and labor rates (an average department’s “actual personnel expense” and not just a firefighter’s basic wage). The actual personnel expense includes costs such as wages, retirement, benefits, workers comp, insurance, etc.