TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: **April 11, 2022** Time: **6:00 p.m.** **Regular Session Agenda**

*The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at **www.townofblackmountain.org**. **Click** on **Town Government** and select **Mayor and Council** to download materials for all Town Council meetings.*

Conserve resources; print only when necessary.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door. Should you need other assistance or accommodation for this meeting, please contact Town Clerk at 419-9310, or by email at townclerk@townofblackmountain.org
(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

- Welcome
- Prayer - *Rob Robinson, Board Chairman - Christian Friends of Korea*
- Pledge of Allegiance
- Announcements

2. PROCLAMATIONS, AWARDS & RECOGNITION

3. CITIZEN COMMENTS

*Individuals wishing to address the Council are asked to sign in at the entrance to the Council 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**.*

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile them and present them to the Mayor for consideration.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

- Black Mountain Beautification Committee Presentation
- Annual Water Report – Jamey Matthews, Public Works Director
- Parks and Recreation Annual Report – Josh Henderson, Recreation Director

5. CONSENT AGENDA

If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

A. Adoption of Minutes

Motion: *To adopt the minutes of the March 14, 2022 Regular Session Meeting, and the March 10, 2022 Agenda Meeting.*

B. US70 Waterline Engineer Selection

Motion: *To approve engineering firm for US70 waterline project.*

C. Martin Luther King, Jr. Marker Letter of Support

Motion: *To approve sending a letter of support for the Martin Luther King, Jr. Marker.*

D. Budget Amendment Underpass Pedestrian Connection

Motion*: To approve the budget amendments as presented.*

E. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Buckeye Street

Motion*: To call for the public hearing to close an unopened, platted portion of Buckeye Street to be held on Monday, June 13, 2022, at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

F. Budget Amendment Black Mountain Beautification Committee Grant

Motion: *To approve the budget amendment as presented.*

Consent Motion: To approve consent item A-F as presented.

6. CITIZEN COMMENTS

*The chair will recognize individuals requesting to address the Council regarding the specific **New Business or Unfinished Business items below**. 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.*

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile and present written comments to the Mayor for consideration.

7. UNFINISHED BUSINESS - None

8. NEW BUSINESS

A. American Rescue Plan – Adoption of Policies and Procedures

Motion*: To approve the American Rescue Plan Policies and Procedures as presented.*

B. Planning Board Memo asking Town Council to consider initiating a petition to close the remainder of Buckeye Street.

Motion: *To initiate the application process to close the remainder of Buckeye Street.*

C. Policy Prioritizing the purchase of Electric Vehicles

Motion: *To approve the policy of purchasing electric vehicles when a comparable EV exists.*

D. Acceptance of Park Amenities for Cragmont Park
Motion*: Approve the acceptance of the project as presented.*

9. 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 on 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.*

A. Public Hearing to Add Text for Mobile Food Vendors and Mobile Food Vendor Courts

Motions for consideration:

1. *To open the public hearing for* ***Ordinance #O-22-02*** *for amendments to add text for mobile food vendors and mobile food vendor courts.*

2. *To close the public hearing.*

3. *To adopt* ***Ordinance #O-22-02*** *as presented [or as amended].*

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed

B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. CLOSED SESSION

A. Closed session to discuss the potential acquisition of property as permitted by North Carolina General Statutes 143-318.11 (5) and to consult with the Town Attorney as permitted by North Carolina Statutes 143-318.11 (a)(3).

13. ADJOURNMENT

Josh Harrold
Town Manager

Town of Black Mountain

Public Works Department

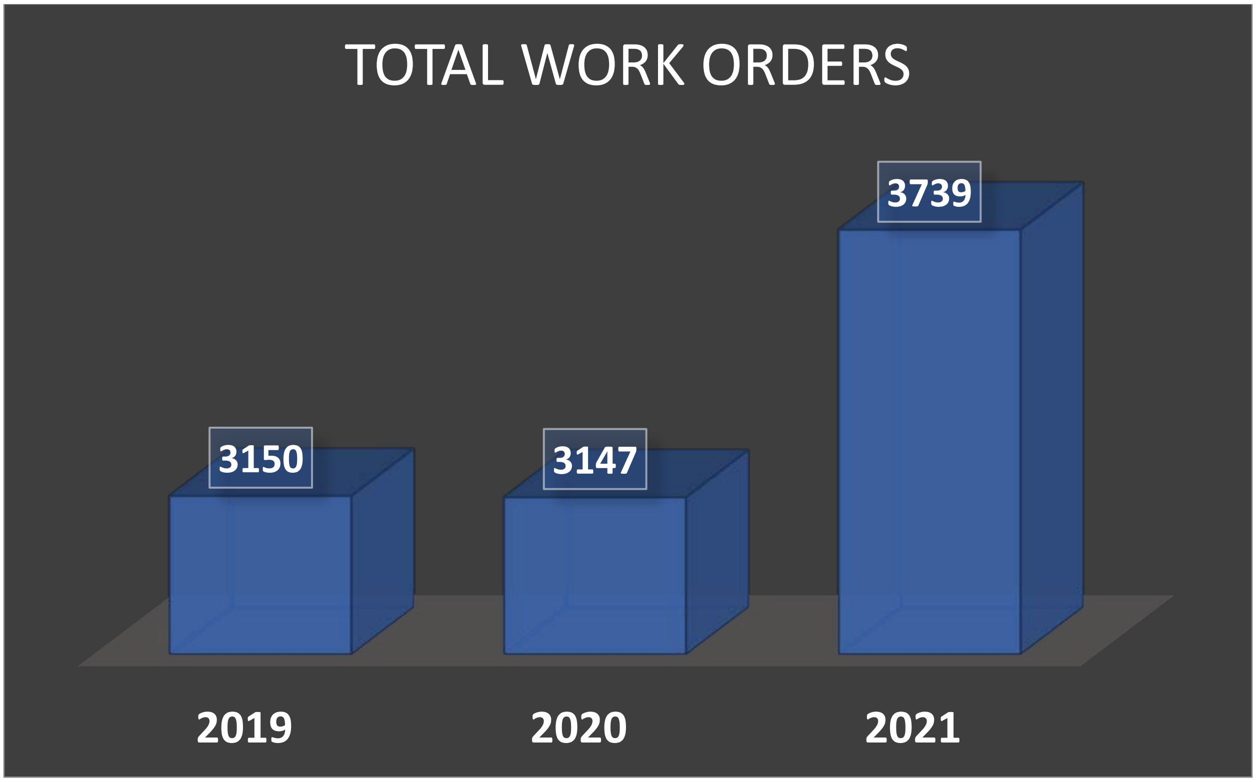
Annual Water Operations Report 2021

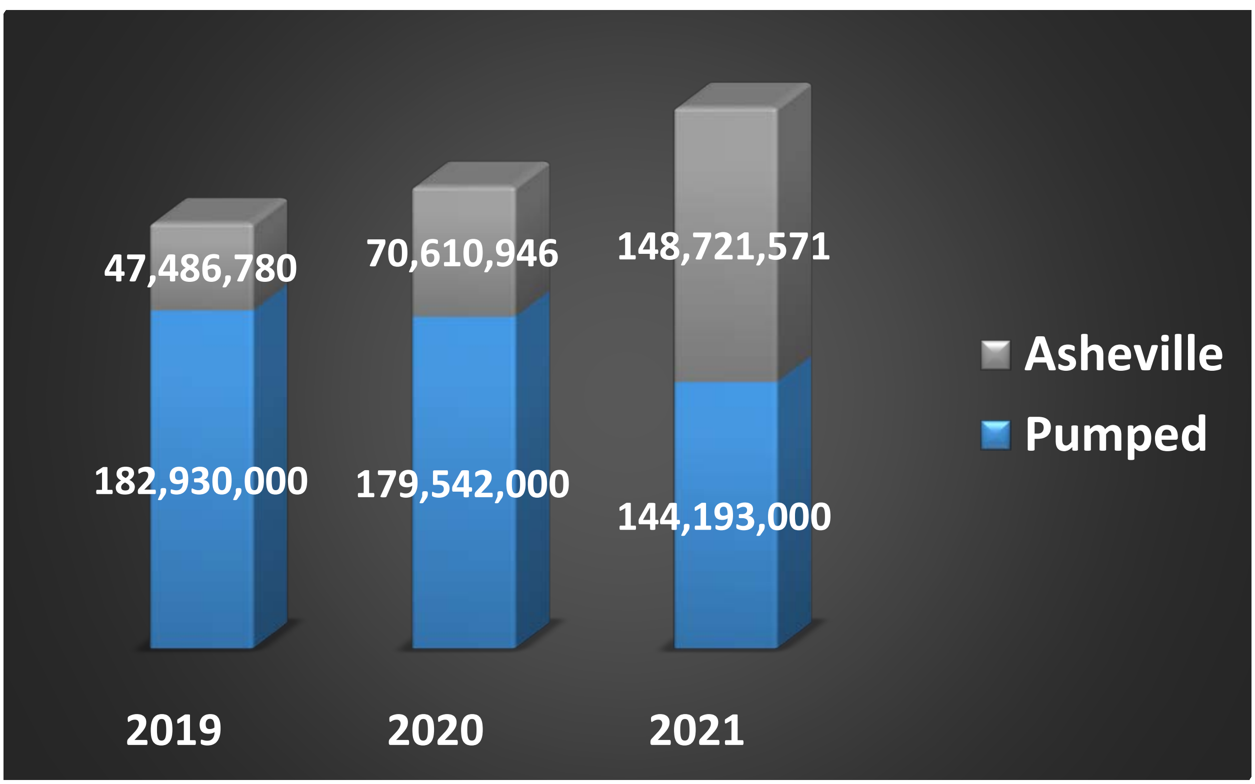
- **2021 Water Operations Projects**
  - Added SCADA to the Black Mountain Estate Pump Station
  - AMR installation
  - Completed Emergency Response Plan for Community Water System
  - Completed Risk and Resilience Assessment Report
  - Updated Wellhead Protection Plan

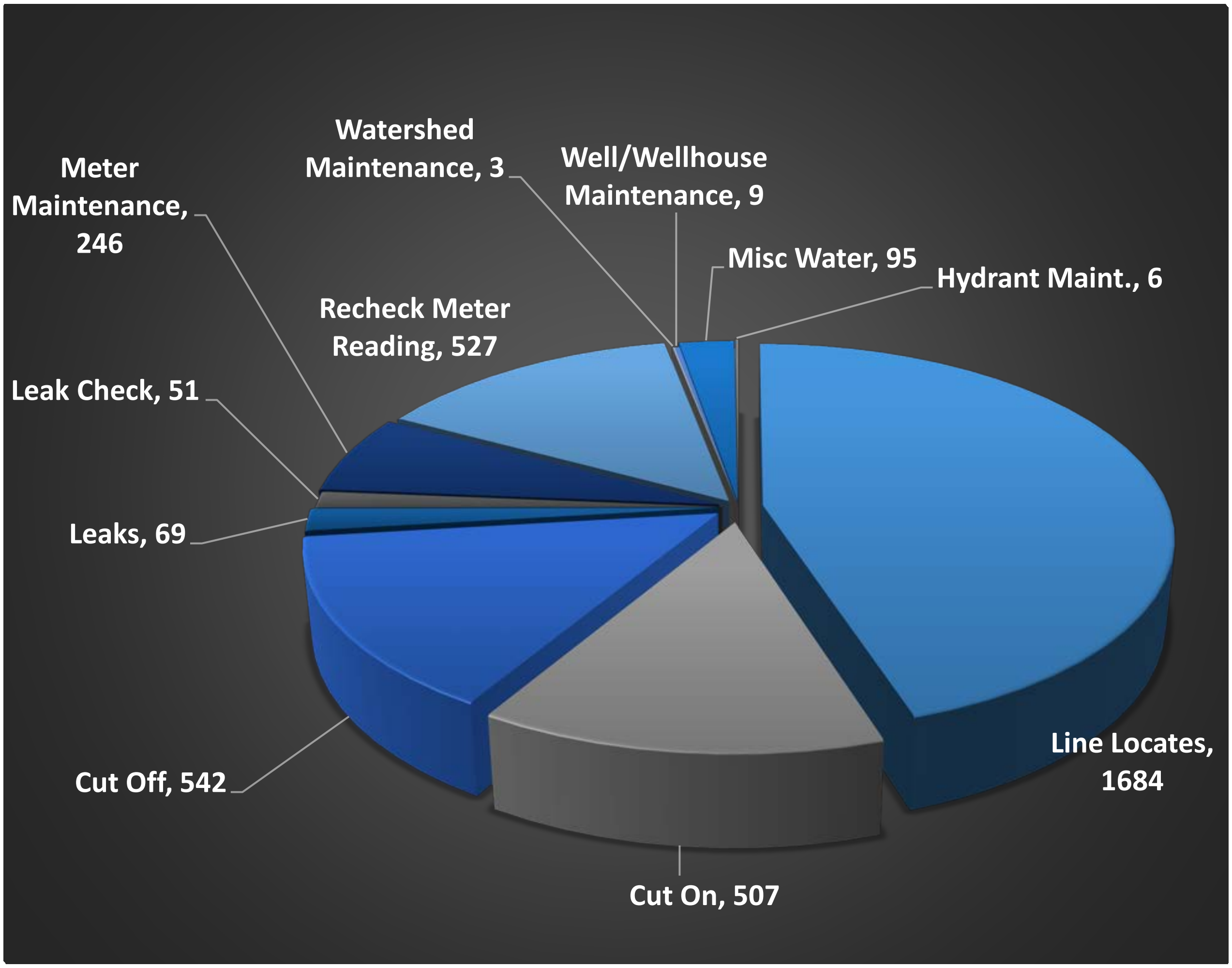
- **Work Orders Completed**

During 2021, the Public Works Department completed a total of 3739 water operations work orders. Below is a breakdown of the work orders completed.

Description	
Line Locates	1684
Cut On	507
Cut Off	542
Leaks	69
Leak Check	51
Meter Maintenance	246
Recheck Meter Reading	527
Watershed Maintenance	3
Well/Well house maintenance	9
Miscellaneous Water	95
Hydrant Repair/Maintenance	6
Total	**3739**


TOTAL WORK ORDERS
3150
3147
3739
2019
2020
2021


47,486,780
70,610,946
148,721,571
182,930,000
179,542,000
144,193,000
Asheville
Pumped
2019
2020
2021


Watershed Maintenance, 3
Well/Wellhouse Maintenance, 9
Meter Maintenance, 246
Misc Water, 95
Hydrant Maint., 6
Recheck Meter Reading, 527
Leak Check, 51
Leaks, 69
Cut Off, 542
Line Locates, 1684
Cut On, 507

2021 Annual Report

Recreation & Parks

***NOTE: All revenues listed in this report are GROSS REVENUES*

Points of Interest

- PARTF Grant Project Elements Completed at Veteran's Park
    - Walking trail extension
    - Easement secured for restrooms
- Partnerships
    - Ridgecrest (conference center; hikes)
    - YMCA Blue Ridge Assembly
    - Warren Wilson (river clean-ups)
    - Epic Cycle (guided bike tours)
    - Christmont (hikes)
    - Black Mountain Home for Children (Valentines 5k donation recipients)
    - Asheville Green Works (river clean-ups)
- Composting
    - Collaborated with staff and community garden to produce and distribute composting survey to town residents
- Improvements
    - Began work on walking path at Cragmont Park as part of the Greenways Master Plan
    - Removed two older building no longer in use at Veteran's Park
    - Completed re-build of tennis courts at Lake Tomahawk
    - Installed new park signage at Lake Tomahawk

2021 Programs, Events and Areas of Interest

Special Events

- Valentines 5k
    - Held virtually (41 runners)
    - Revenue: $2,228
    - Donation to Black Mountain Children's Home: $806
- Hooked on Lake Tomahawk
    - 100 participants; new event
- Park Rhythms
    - 3,700 (approx.) attendance; 8 dates; new location
- PumpkinPOST
    - 55 participants; partnership with Community Garden
- Circle of Lights
    - 375 participants

Youth Sports

- Indoor soccer
    - 328 participants
    - Revenue: $14,980
- Outdoor soccer
    - 223 participants; 2 seasons
    - Revenue: $5,360
- Youth disc golf league
    - 30 participants; 2 seasons
    - Revenue: $550
- Tennis clinics
    - 66 participants
    - Revenue: $990
- Youth swim league
    - 146 participants
    - Revenue: $8,720

Outdoor Programs

*All programs capped at 15 participants

- Cabin Fever Defeater Series (Jan-Feb)
    - Indoor rock climbing, hikes, riverbank clean-ups
    - 86 participants
- Spring Ascension Series (Mar-April)
    - Outdoor rock climbing, hikes, river clean-ups
    - 66 participants
- Arm's Length Adventure Series (Aug-Sept)
    - Hikes, archery, river clean-ups, guided bike rides
    - 126 participants
- Fall Peaks Hiking Series
    - Six destination hikes
    - 90 participants

Pool

*Pool was operated in 2021 with limited staffing; 5 positions were not filled
*Two other local pools were not open in 2021, Owen Pool and North Buncombe

- Total attendance: 3,704
- Revenues
    - Gate: $57,623

  - Concessions: $16,145
- Programs
  - Lap swim: 158 participants
  - Swim lessons: 64 participants

Summer Camps

Black Mountain Summer Camp
- 6 weeks
  - 45 campers
  - Due to the ongoing threat of COVID and no staff, registration numbers were reduced to 50%
  - Revenue: $6,450

Tennis Camp
- 33 participants, 14 volunteers

Active Aging Adults (Lakeview Center)

- Meal site
  - 7,319 meals served through Council on Aging
- Contracted new meal site driver
- Hired new exercise instructor and resumed classes
- Programs and activities still limited significantly due to COVID-19
- Hosted vaccine clinics in collaboration with Healthridge Pharmacy
- AARP tax assistance program

Community Garden

- 80 total plots; 19 are grown solely for donation
- 129 registered gardeners in 2021
  - 101 (2020), 95 (2019), 85 (2018)
  - Plot revenue: $2,363
- Produced 5,189 lbs of food for donation (Bounty & Soul)
  - 6,000+ (2020), 4,450lbs (2019), 3,055lbs (2018)
- 2000+ Volunteer hours logged
- Hosted Annual Christmas Tree Recycling Program
- 3 Interns in 2021 through BMPGF

Adult Sports

- Pickleball
  - Days of organized play: 194

    - Total players: 3,182
- Tennis
    - BMTA members: 140+
    - BMTA matches: 18
    - USTA matches: 40

<u>Facility Rentals</u>

- Lakeview upstairs
    - Rentals: 30
    - Revenue: $13,780
- Lakeview downstairs
    - Rentals: 10
    - Revenue: $2,800
- Pavilions (lake tomahawk & veteran's park)
    - Rentals: 117
    - Revenue: $4,649
- Grey Eagle
    - Rentals: 8
    - Revenue: $1,480
- Pool
    - Rentals: 15
    - Revenue: $3,355

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
AGENDA WORKSHOP MEETING MINUTES
March 10, 2022

THE BLACK MOUNTAIN TOWN COUNCIL held an agenda workshop Thursday, March 10, 2022 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to review the agenda for the regular monthly meeting scheduled for Monday, March 14, 2022 at 6:00 p.m.

1. CALL TO ORDER

Mayor Larry B. Harris called the meeting to order at 5:00 p.m. *with the following members present*:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Council Member Archie Pertiller
Council Member Pam King
Council Member Doug Hay
Council Member Bill Christy

The following staff members were present:

Josh Harrold, Town Manager
Savannah Parrish, Town Clerk
Ron Sneed, Town Attorney

Mayor Larry Harris opened the meeting. Town Manager, Josh Harrold presented the proposed agenda to the Town Council.

Manager Harrold stated that a Council Member contacted him with an interest of adding a Resolution of Support of Ukraine, which will be added to the agenda as item **5G – A Resolution in Support of Ukraine**. Manager Harrold also requested that the Town Council add item **5H - Summer Camp Temporary Employee Pay Increase**.

Mayor Harris requested that the Town Council add a brief presentation from Chip Craig, of the Asheville-Buncombe Sport Complex Project.

Manager Harrold concluded the presentation of the agenda items.

Council Member Archie Pertiller moved to adopt the proposed agenda as amended. The motion was approved by a vote of 5-0.

There being no further discussion Mayor Larry B. Harris adjourned the meeting at 5:09 p.m.

:

Savannah Parrish, Assistant to Manger/Town Clerk	Larry B. Harris, Mayor

TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: **March 14, 2022** Time: **6:00 p.m.** **Regular Session Minutes**

*The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at www.townofblackmountain.org. **Click** on **Town Government** and select **Mayor and Town Council** to download materials for all Town board meetings.*

Conserve resources; print only when necessary.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door. Should you need other assistance or accommodation for this meeting, please contact Town Clerk Savannah Parrish at 419-9310, or by email at townclerk@tobm.org

(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

Mayor Larry Harris called the meeting to order at 6:00 p.m. with the following members present:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Council Member Archie Pertiller
Council Member Bill Christy
Council Member Doug Hay
Council Member Pam King

The following staff members were present:
Josh Harrold, Town Manager
Savannah Parrish, Town Clerk
Ron Sneed, Town Attorney

Mayor Harris welcomed the public and led the Pledge of Allegiance. Dr. David Phillips of First Baptist Church Offered an invocation.

2. PROCLAMATIONS, AWARDS & RECOGNITION

Mayor Harris read resolution R-22-03, a resolution in Support of Ukraine. Mayor Harris also read the Mayor's Monarch Pledge.

3. CITIZEN COMMENTS

Judy Eubanks addressed the Town Council and asked for consideration of additional tennis courts.

Nathan West commented on the importance of youth sports in the community and asked the Town Council to further support those programs.

Joe Scotto spoke on behalf of the Recreation Commission to request support for the maintenance and repair of Grey Eagle.

Shawn Slome thanked Council Member Doug Hay for the listening session he held online. Mr. Slome encouraged other council members to do the same.

4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

A. Chip Craig addressed the Town Council concerning the Asheville-Buncombe Sports Complex. Mr. Craig has identified Black Mountain Commerce Park as a potential site for the Sports Complex, which would make it the anchor tenant. The Town Council had a resolution of support for the Sports Complex to be located in the Commerce Park in their consent agenda. Mr. Craig is currently completing the 501©3 requirements for the project.

B. Steffi Rauch presented to the Town Council information concerning the Citizens Climate Lobby, which is a climate change organization focused on national policies to address climate change. Ms. Rauch specifically asked the Council to support an economy-wide carbon tax which would be implemented at a federal level.

C. Libba Farleigh, on behalf of the pickleball group, expressed to the Town Council a desire for more pickleball courts. She cited the growing group of players and the increasing popularity of pickleball.

5. CONSENT AGENDA

A. Adoption of Minutes

Motion: *To adopt the minutes of the March 5, 2022 Strategic Planning Workshop, February 14, 2022 Regular Session Meeting, the February 14, 2022 Closed Session Meeting, and the February 10, 2022 Agenda Meeting.*

B. Call for Public Hearing to Add Text for Mobile Food Vendors and Mobile Food Vendor Courts

Motion*: To call for a public hearing to add text for mobile food vendors and mobile food vendor courts to be held on Monday, April 11, 2022, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

C. Budget Amendment for trade of used firearms for Police Department

Motion: *To approve the budget amendment as presented.*

D. Black Mountain Police Department Off-Duty Fee Schedule

Motion: *To approve and adopt the Police Department Fee Schedule presented.*

E. Recreation Fee Schedule Amendment (Pool)

Motion*: To approve the addition of the group rates for the Black Mountain pool in recreation fee schedule as presented*

F. Resolution By the Town of Black Mountain in Support of the Asheville-Buncombe Sports Complex #**R-22-02**

Motion: *To approve Resolution #R-22-02 as presented.*

G. Resolution By the Town of Black Mountain in Support of Ukraine #**R-22-03**
Motion: *To approve Resolution #R-22-03 as presented.*

H. Summer Camp Temporary Employee Pay Increase
Motion: *To approve the Summer Camp Temporary Employee Pay Increase as presented.*

Council Member Archie Pertiller moved to approve consent item A-H as presented. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS

Shawn Slome of 115 3rd Street addressed the Town Council with concerns about the updated Code of Ethics, which the Town Council considered under new business.

7. UNFINISHED BUSINESS - None

8. NEW BUSINESS

A. Resolution **R-22-01** to Adopt an Updated Code of Ethics for the Governing Body of the Town of Black Mountain.

Attorney Sneed stated that the update to 160D broadened the requirements for the Code of Ethics, and the Town Council required a minor update to their policy. The Town Attorney also addressed some matters of overreach which were present in the previous policy.

Council Member Doug Hay moved to approve R-22-01 as presented. The motion was approved by a vote of 5-0.

B. Administration Agreement with NCDOT for Ninth Street Bridge

This is an agreement for NCDOT to administer the Ninth Street Bridge replacement project. Each agreement will be completed by phase, Professional Engineering/Right-of-Way/Construction. This agreement is for Professional Engineering only. It represents an 80/20 cost share with an estimate match of $40,000 for the PE phase.

Council Member Pam King moved to approve the Administration Agreement with NCDOT for Ninth Street Bridge. The motion was approved by a vote of 5-0.

C. Pet and Other Waste Ordinance and Definition

The stormwater management plan, required by the NPDES permit require review of ordinances related to the management of fecal coliform. The environmental regulations lacked specific ordinances related to fecal coliform management. This ordinance meets the requirements of the stormwater management plan by prohibiting pet waste from being left in public space. It also includes a section to prohibit things like yard waste from entering the stormwater system, including open ditches.

Council Member Bill Christy moved to approve the ordinance as presented. The motion was approved by a vote of 5-0.

D. Board Appointments

Zoning Board of Adjustment – One (1) 3-year terms ending June 30, 2025

One applicant, Chloe Riddle, applied for the vacant seat. There was some discussion among the Council Members in which they concluded that Ms. Riddle was an excellent candidate for ZBA.

Council Member Pam King moved to appoint Chloe Riddle fill a 3-year term ending June 30, 2025. The motion was approved by a vote of 5-0.

9. 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 on 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.*

A. Public Hearing for Rezoning of 713 NC 9 Hwy ***#Z-O-22-01 – continued from February 14, 2022***

Planning Director Jessica Trotman gave a brief review of this matter. The property is currently TR-4 and the applicant is requesting a zoning designation of HB-8 to allow for commercial use. The Planning Board heard this request at the regular meeting on December 20, 2021 and voted 6-1 (Kathy Phillips voting against) to not recommend the HB-8 zoning designation as there is an unknown impact to the neighbors, a problematic traffic situation, unknowns about the DOT roundabout project and the possibility of unconventional development. The Planning Board believes this area will become more commercial over time but hope that the roundabout will be finished before advancing that change.

The applicant, Steve Holland, of 39 Farm Way in Weaverville addressed the Town Council. He addressed a few of the concerns expressed by the neighbors, including traffic.
Sonya Melton of 115 Hill Street expressed concern about the traffic, the height of the building and

parking issues.

Joe Tyson of 309 N Dougherty Street spoke against the rezoning, stating that it should wait until traffic conditions on Highway 9 are improved and the neighborhood expresses a desire for more commercialization.

> ***Council Member Archie Pertiller moved to close the public hearing. The motion was approved by a vote of 5-0.***

> ***Council Member Pam King moved to deny the Rezoning of 713 NC 9 Hwy. The motion was approved by a vote of 5-0.***

10. COMMUNICATION FROM STAFF

A. Town Attorney Ron Sneed is continuing to work with Buncombe County to update the agreement for the use of the library building.

B. Town Manager Josh Harrold updated the Town Council on the FEMA Funds. The Greenway Project will be fully funded at just over $50,000. FEMA will not be proving all of the funding for the golf course, but they will pay $5000 towards those repairs. FEMA will also provide $12,000 for the stream restoration work.

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Council Member Pam King recognized International Women's Month and offered thanks for all of the women on Town of Black Mountain's staff.

Mayor Harris acknowledged the Black Mountain Library's 100th Birthday by reading an article from the Black Mountain News from 1968 which commemorated the libraries move into the current building.

12. ADJOURNMENT

There being no further business, Mayor Harris adjourned the meeting at 7:39 p.m.

ATTEST:

Savannah M. Parrish Town Clerk	Larry B. Harris, Mayor
	Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION

Meeting Date: April 11, 2022

SUBJECT: US70 Waterline Engineer Selection

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5B
Department: Administration
Contact: Josh Harrold, Town Manager
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: The Town solicited a request for qualifications from engineering firms to perform engineering for the ARPA funded US70 water line. After review of proposals, staff recommends awarding the project to Civil Design Concepts.

MOTION FOR CONSIDERATION: To approve engineering firm for US70 waterline project.

FUNDING SOURCE: ARPA

ATTACHMENTS: N/A

MANAGER'S COMMENTS AND RECOMMENDATIONS: To accept as presented.

Application
2021 Cycle

Application Guidelines:

- Applications must be complete, clear, and organized
- All facts and statements must be documented with primary sources that were written at the time of the event. These must be included within the application. Primary sources include:
    - Letters
    - Deeds
    - Newspaper articles
    - Meeting minutes that might substantiate the historical information in the application
- Secondary sources about the marker subject that put the subject in context. These must be included within the application. Secondary sources include:
    - Published scholarly articles
    - Books
- Photocopies/scans of <u>all</u> documentation, primary and secondary, must be submitted with the application.
- Photocopies/scans must include citations: the title, author, and date of publication.

- Electronic applications and documentation (submitted via Google Drive or Dropbox Link) are welcome and appreciated.
- If you are mailing your application, for scanning purposes, please use paperclips rather than staples.
- Questions? Email us at nccivilrightstrail@ncdcr.gov.

Deadline: Sunday, October 31, 2021

Examples of Strong Marker Applications:

- Greensboro Polio Hospital
- State v. Will

Next Steps:
After your application is submitted, it will be reviewed by the NC Civil Rights Trail Advisory Committee. You will be notified of your application status (marker approved, or application denied) by November 2021.

If you are awarded a marker, our team will work with you to finalize the text for your marker and arrange for its delivery to you. You will be responsible for arranging marker placement with landowners (and municipal officials, if applicable). We are happy to offer guidance around organizing marker dedication ceremonies. Finally, your site will be added to the NC Civil Rights Trail Digital Map.

A maximum of 20 markers will be awarded this round. If you do not receive a marker this cycle, you may re-apply one time.

This project is made possible by funding from the William G. Pomeroy Foundation.

Application

A. **Subject of proposed marker** (Who or what place do you wish to commemorate?):

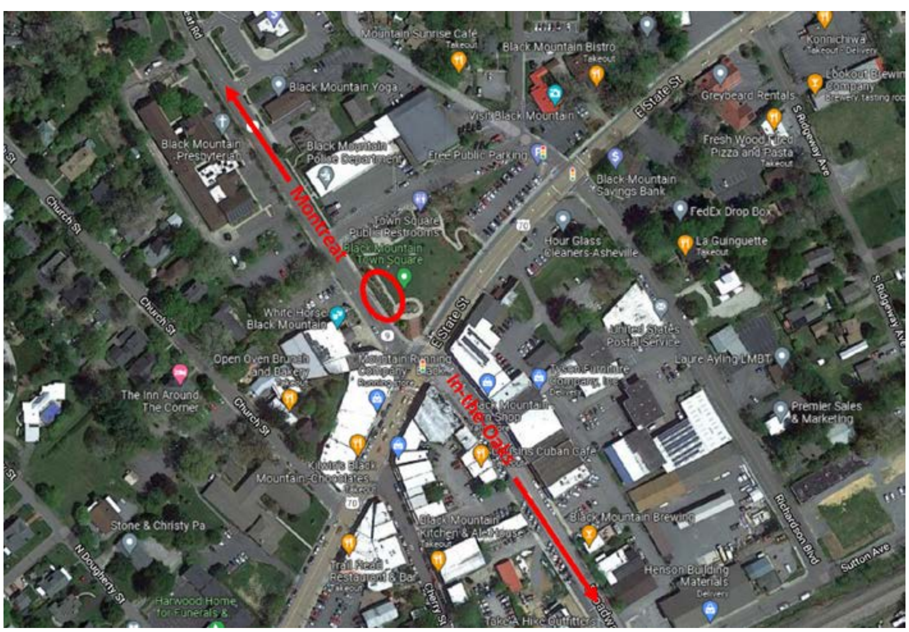
Martin Luther King, Jr.'s visits to western North Carolina in 1964 and 1965

B. **Site to be marked** (What contemporary space do you aim to mark to recognize the marker subject?):

The proposed marker will recognize the site of the Martin Luther King Jr's Southern Christian Leadership Conference strategic planning retreat in January 1964. The retreat was held at In-the-Oaks in Black Mountain, North Carolina. At the time, the former private estate was owned by the Episcopal Diocese. It is now owned by Montreat College. The marker will also recognize Martin Luther King Jr.'s return trip to the area for his August 1965 keynote speech at a Presbyterian conference on the Church's role in the civil rights movement in Montreat, just a few miles from In-the-Oaks.

C. **Proposed location of marker** (Where will the marker be placed? Be specific. Please provide street address or closest intersection. Note whether the site lies within the corporate limits of a city or town. An attached map of the location would be useful.):

The marker will be placed in Black Mountain's town square along Montreat Road. The closest intersection is Montreat Road (also known as NC Highway 9) and State Street. This is town-owned property. The marker will be erected by the Public Works Department of the Town of Black Mountain. This is approximately equidistance from In-the-Oaks and Montreat. (Alternatively, the marker could be placed at the corner of Terry Estate Drive (the Terry's built In-the-Oaks) and NC-9.)



This project is made possible by funding from the William G. Pomeroy Foundation.

D. **Historical essay** (Tell us more! Use this space to help us understand the marker subject and the context. This is also the place to establish statewide and/or regional significance.):

Though Dr. Martin Luther King, Jr. made many public visits to central North Carolina in the 1950s and 1960s, including to Charlotte, Raleigh, Durham, Greensboro, and Rocky Mount, he only made two known visits to western North Carolina – in January 1964 and August 1965. Both visits occurred during key moments in the civil rights movement (Calder, 2017 and Hughes, 2015). And though both visits are covered in this essay, his first visit holds particular significance to the civil rights movement as a whole. It was during this first visit that King and his colleagues charted a path for the direction the movement would take as the nation healed from the assassination of John F. Kennedy and as the Civil Rights Act stalled in Congress. The location of the retreat in Black Mountain, North Carolina, was chosen by Dr. King as a private space in which he and his colleagues could rest, rejuvenate, and strategize for the coming year in relative seclusion and safety.

During Dr. King's first visit in January 1964, he stayed for several days at the Episcopal Diocese-owned estate, In-the-Oaks, in Black Mountain for a strategic planning retreat with members of the Southern Christian Leadership Conference (SCLC). According to recently-released Federal Bureau of Investigation (FBI) surveillance documents on King, the retreat was focused on "where do we go from here" (FBI, December 18, 1963) with the civil rights movement. At the meeting, King and members of the SCLC "discussed the accomplishments [of the civil rights movement] in 1963, and the program for 1964." (Elliston, 2020)

Less than six months later, on July 2, 1964, President Johnson signed the new Civil Rights Act of 1964 into law with Dr. King by his side. (King, 1964) By the end of the year, Dr. King had been awarded the Nobel Peace Prize for "for his dynamic leadership of the Civil Rights movement and steadfast commitment to achieving racial justice through nonviolent action." (Civil Rights Digital Library)

A little over a year and a half later, in August 1965, King returned to western North Carolina to give a keynote speech entitled, "The Church on the Frontier of Racial Tension" to nearly 3,000 people attending the Presbyterian Christian Action Conference in Montreat's Anderson Auditorium. In the speech, King spoke to key civil rights issues including social and economic inequality, segregation, nonviolent action, and the church's moral obligation to serve everyone regardless of skin color. Though met with resistance from within the church as well as from some in the local community, King's speech, and the conference in general, was a turning point for many white Southern Presbyterians in how they thought about race, segregation, and civil rights. (King, 1965 and Pitts, 2015)

SCLC Retreat at In-the-Oaks, January 20-22, 1964

A few months after the murder of four young girls in the bombing of an Alabama church and a few weeks after the assassination of President John F. Kennedy, Martin Luther King, Jr. flew to Washington, D.C. to meet with President Lyndon B. Johnson about issues of race. King's trip to the oval office delayed a much-needed retreat he had planned with members of the Southern Christian Leadership Conference in Black Mountain, NC. After King left Washington, he flew to the Asheville airport and then traveled by car to Black Mountain for a needed reprieve and to begin plotting a track for the civil rights movement in 1964. (Elliston, 2016) On his way from

This project is made possible by funding from the William G. Pomeroy Foundation.

Asheville to Black Mountain, members of his party noted a 1960 white Oldsmobile driven by a white man that appeared to be following them. They stopped to alert a NC Highway Patrolman and continued on their way with no other problems. (FBI, January 24, 1964)

King was relatively quiet about his plans to retreat in Black Mountain due to impending threats to his life as well as ongoing FBI surveillance. Beyond investigating his political activities, the Bureau kept tabs on his taxes, hoping to silence him with a tax evasion charge. Though confidential at the time, newly-released FBI documents shed light on King's plans for his Black Mountain retreat. A December 18, 1963, confidential source informed the FBI that King had told Clarence Jones, the General Counsel for the Gandhi Society for Human Rights in New York City, that he was planning a "retreat like" conference at In-the-Oaks, which would "give 'us' time to get a little recreation." King mentioned to Jones that In-the-Oaks had a swimming pool and bowling alley and that he was "thinking of taking 20 or 30 people…[to] sit down and really discuss the program…for 1964, and looking over 1963." King planned for the retreat to be "a where do we go from here discussion." (FBI, December 18, 1963)

There was little local media coverage of King's visit to western North Carolina, especially in the immediate vicinity, as the local papers did not want to seem politically aligned with King. Newspapers out of Charlotte, NC, did briefly report on King's "staff retreat," even naming the location as In-the-Oaks on January 21. King commented on the first day of the retreat that though churches had made progress on civil rights issues, "11 o'clock on Sunday morning is still the most segregated hour in America." He continued, "The problem of civil rights is a national one and no section of the country can boast of clean hands in the area of brotherhood." The paper continued to paraphrase King's comments, "He predicted that the next movement in civil rights would be in the form of an all-out assault on the problem rather than a concentration of one particular phase." (*The Charlotte Observer*, January 21, 1964)

Asheville Citizen reporter Lewis Green remembered being assigned to cover King's visit. In his memoir, *Of Human Interest*, Green, a white man, recalled, "…as a reporter for the daily newspaper here I was assigned to cover [King]. My beat was normally the police/courts beat, and since there were heavy security considerations about King's visits, that came under my beat…. [King] would fly into the Asheville Airport, where he was met by functionaries…. Henry P. Clay was Sheriff at that time, and he provided several deputies to escort King's convoys to the destination and back to the airport. One black officer he always assigned personally to MLK was the late Bruce Steele of West Asheville. I generally rode in one of the cruisers. At that time, King was hotly controversial and in keeping with its policy, the newspaper management did not want very much written." (Green, 2003) No coverage of King's visit appeared in the Asheville paper until after his departure. The weekly *Black Mountain News* made no mention of King's visit.

There is no complete account of the retreat, at least in part due to King's valid concerns about FBI surveillance. King's colleagues with the SCLC had audio taped the discussions at the retreat, but when Harry Wachtel, one of King's advisors, warned King that it was more than likely that the FBI was attempting to infiltrate the organization, the recordings of the summit were destroyed. And as formerly-classified documents from the FBI detail, King was indeed under surveillance. (Elliston 2016 and Branch 1999) In fact, in advance of the retreat

This project is made possible by funding from the William G. Pomeroy Foundation.

FBI Director J. Edgar Hoover, who held a grave dislike of King, sent agents to In-the-Oaks. They recruited a local person (whose name has been redacted) to secretly report back on King's visit. Ultimately, little was reported to the FBI other than a vague post-meeting summary that read, "at the meeting they discussed the accomplishments (in the civil rights movement) for 1963, and the program for 1964." (Elliston, 2016 and FBI, January 7, 1964 and January 23, 1964)

More recent oral histories from those in attendance give a more detailed picture of King's time in Black Mountain in January 1964. Reverend C.T. Vivian, who attended the summit, told historian Ben Kamin, "[King] did sometimes [unwind] during those days in the mountains, believe it or not…. There was some relaxing time and jokes and fun. We took breaks and played softball and Ping-Pong, cards, and Martin just seemed to let off a lot of steam." (Elliston, 2016 and Kamin, 2014)

In oral histories recorded in 2003 and 2005, Black Mountain resident and former maid at In-the-Oaks, Inez Daughtery, recalled meeting King during the retreat. Daugherty said, "I know I had a privilege of meeting Martin Luther King. And he talked to me at length about the things he was going through and the things he was doing. And he told me, he said, 'Mrs. Daugherty,' he said, '…the work I'm doing,' he said, 'I know that I am going to die a violent death…. And I live prepared to meet my Maker each day because I know that I will be killed.' And he was. He was."

Daughtery continued, "I was working at In-the-Oaks down at the Episcopal Center. And they came for retreat. [King], Andrew Young and Ralph Abernathy and their group." Though King had been advised to travel by car rather than plane for better anonymity, King chose to fly. Daughtery remembered, "The minute he stepped off the plane [in Asheville] and got in the terminal, some lady said, 'Hello, Dr. King.' It was out. Next morning the phone was ringing all day [at In-the-Oaks], looking for Dr. King. [They'd say], 'He's in this area, somewhere and we want to find him. We want to know where he is.'"

"So finally, about five o'clock that evening, Henry Clay, the sheriff…called…. I said, 'Mr. Clay, I want to ask you something.' He said, 'What?' I said, 'What do you want with Mr. King?' He said, 'Well, Inez, a man of his stature, status and all,' he said, 'people want to do him harm. Wherever he is, I want to give him protection.' So, I said, 'Well, I'll talk to my manager and he'll talk to you and tell you if he's here or not.' And [Clay] sent a man [Bruce Steele] out to patrol the area…. And, one afternoon, there's a young white man came rang the bell. 'I heard Dr. King is here.' …he was going to come in the house. Well, they didn't know whether he wanted to see him or do him harm so they got the police to get him away from there." (Daughtery, 2003 and 2005).

The retreat itself seemingly went off without any major hitches. Despite limited records, Branch and other King historians have pieced together the basic work of the SCLC in Black Mountain which, perhaps most importantly, included how to "counter allegations of Communist influence on their movement, and when, where, and how to mount new civil disobedience campaigns." (Elliston 2016 and Branch 1999).

This project is made possible by funding from the William G. Pomeroy Foundation.

Soon after King, his wife, and several of his colleagues boarded his 8:30pm departing flight from Asheville to Atlanta on January 22, they were asked to deplane. They soon learned that the flight had been delayed due to a bomb threat. As King walked back to the airport from the plane, he remarked to his staff member, Dorothy Cotton, "I've told you all that I don't expect to survive this revolution; this society's too sick." (Elliston, 2016)

According to an FBI memo, a female, who identified herself as a telephone operator from Birmingham, Alabama, called the Asheville Airport and asked to speak with King. King's assistant, Wyatt Tee Walker, took the call. The woman told Walker, "You had better get that S.O.B. out of Asheville, North Carolina. I hope there is a bomb on the plane," then hung up the phone. Apparently, the same woman had called the day previously and said "something about they better get Marth Luther King out of Black Mountain before somebody kills him" and had also called twice before King arrived at the airport on the 22nd to ask where King was staying and what flight he was on out of Asheville. There was some hesitancy among local officials about whether the call was long-distance or local. The plane was searched, no bomb was located, the plane departed Asheville at 11:17pm, and King and his party arrived home safely. (FBI, January 24, 1964)

The bomb scare did make local papers, likely because *Asheville Citizen* reporter Lewis Green managed to sneak onto the plane to help with the search for the bomb. Following the search, Green had a conversation with King in the airport waiting room. King asked him, "Now, as a middle-class white man, what are you doing for Civil Rights?" Green denied being middle class and told King, "I'm active in programs on alcoholism. I just can't save the whole world. You take care of the black problem and I'll handle what drunks I can, black or white." (Green, 2003) Still, Green only publicly reported at the time, "King declined to comment while he waited except to observe this was the first time he had been forced to leave a plane." (*Asheville Citizen*, January 23, 1964) Newspapers across the United States, and even into Canada, covered the bomb threat, but wrote little, if anything, about the retreat itself.

Christian Action Committee Keynote Speech at Montreat's Anderson Auditorium, August 21, 1965
Over a year and a half later, Martin Luther King returned to western North Carolina, this time for a public appearance as the keynote speaker at the Christian Action Conference of the Southern Presbyterian Church. The conference them was "The Church and Civil Rights." He had originally been set to open the three-day event, but was delayed by a major riot in the Watts neighborhood in Los Angeles. King detoured to LA to help diffuse the tension, then made his way to North Carolina, arriving on August 20, 1965. (Calder, 2017 and Elliston, 2016)

In the months leading up to the conference, the Presbyterian Church fielded letters, telegrams, and phone calls expressing strong feelings about King's planned speech – some in support, many in opposition. An August 6, 1965 article in the *Asheville Citizen* entitled "King's Montreat Talk Already Stirs Unrest," reported "…King's scheduled speech at Montreat, N.C., this month has caused considerable controversy…. The invitation to King had brought communications opposing it. But…there were also communications commending the board for its action." (*Asheville Citizen*, August 6, 1965)

This project is made possible by funding from the William G. Pomeroy Foundation.

Opposition to the King's presence at the conference had been ongoing for months inside and outside the church. Shortly after King had been invited and agreed to be the keynote speaker for the conference, a South Carolina elder within the Presbyterian organization had requested that the General Assembly of the Presbyterian Church withdraw the invitation to King to be the keynote speaker. But the General Assembly voted 311 to 120 to reject the request and reaffirm King's invitation. Though the church continued to receive opposition (as well as support) for King's appearance, there was no further discussion of resending his invitation. (*Asheville Citizen*, August 6, 1965)

As the date of King's speech approached, the FBI were on high alert for any threats to King's security. On August 14, 1965, an informant told the FBI that he had overhead "a man, whose name he did not know, say something about having two 8 millimeter rifles which would pinpoint a target 500 yards. When asked what he was talking about, he said, 'I guess he was talking about that S.O.B. who is coming to Montreat next week.'" The FBI informed law enforcement in Asheville. (FBI, August 14, 1965)

On August 15, white evangelist Billy Graham, who made his home in Montreat, spoke about the L.A. riots to an "overflow" audience in Anderson Auditorium, where King was schedule to speak in two days' time. A staff writer for the Asheville paper wrote on the front page alongside headlines about the riots, "Although he didn't name any individual, it could be inferred that he was referring to Dr. Martin Luther King Jr. [when he said,] 'Any religious leader can express his personal views as an individual. However, President Johnson and the Congress are perfectly capable of handling American foreign affairs if they have the support of the people.'" (*Asheville Citizen*, August 16, 1965) Graham was specifically referring to King's outspoken critiques of the Vietnam War.

As the nation watched the L.A. riots, concern among local residents and law enforcement about King's visit grew. A Tuesday, August 17, 1965 article in *The Charlotte Observer* entitled "Don't Visit N.C., Dr. King Told," read "Solicitor Robert S. Swain of Buncombe County said Monday after conferring with law enforcement officers he felt it would be better if Dr. Martin Luther King Jr. did not visit a church meeting at Montreat Thursday. 'We do not need any outside agitators in this area,' said Swain in an interview with a local radio station. Swain said he made his remarks in view of the riots in Los Angeles." (*The Charlotte Observer*, August 17, 1965)

Swain continued by asking "that there be no demonstrations against the King visit" and that "there was always an element in a community that could cause trouble." He felt King's visit might "set them off." (*The Charlotte Observer*, August 17, 1965) And the day King was set to arrive, "'anti-King' literature was distributed…at this usually peace community, the home of The Rev. Billy Graham, the evangelist, by 'a lot of people who were unknown…a rough looking group.'" Henry P. Clay was still sheriff of the county. He had received reports "that certain outside violent hate groups have planned demonstrations and law-breaking acts at this gathering," but declined to name the groups. "We'll screen everyone coming in," he said, "and we'll search autos and individuals for guns if necessary." (*The Daily Times-News*, August 21, 1965)

This project is made possible by funding from the William G. Pomeroy Foundation.

The Asheville paper, which had only covered King's impending visit on page 18 the day before, placed news of the cancelation of his talk on the front page with the reason for his cancellation – "he is visiting Los Angeles." (*Asheville Citizen,* August 19, 1965) Dr. Gayraud Wilmore, director of the United Presbyterian Church's Commission on Religion and Race, spoke in King's stead. Dr. Wilmore, a Black man, had spent five days in the riots before arriving in North Carolina. In his opening speech, the Charlotte paper noted that Wilmore described the riots as springing from "frustration and deperation" of African Americans and referred to the riots as a "revolt for humanity and dignity." (*The Daily Independent*, August 20, 1965) The same day, a staff writer with the Asheville paper, quoted Wilmore as saying, "The demonstrators are saying, 'Look at me, I'm a person. I live in that place – you'll see me, I'm black and poor but I'm an American and I am human. I will not let you rest in your tranquil community and ignore me anymore.'" (*Asheville Citizen*, August 20, 1965)

King rescheduled his talk for Saturday, August 21, 1965, at 2:00 pm. He arrived at the Asheville airport at 1:00pm. Five sheriff's deputies escorted King from the airport to Montreat. (*The Charlotte Observer*, August 22, 1965) Sheriff Clay told the Asheville paper that "the sole responsibility for the safety of Dr. King has been thrust upon my department by the Federal agencies." As such, though the speech was supposed to be open to the general public, Clay said he would refuse entrance to anyone who did not have "business there." Clay continued, "It is my intent that this county remain peaceful and law-abiding. Recent happenings such as those in California, Chicago, and Massachusetts will not occur in Buncombe County." (*Asheville Citizen*, August 21, 1965 and *The Daily Times-News*, August 21, 1965)

Glenn and Evelyn Bannerman, two long-time white Montreat residents, recalled of King's visit, "People were concerned about what might happen and what demonstrators might do to the extent that some of the Montreat maintenance staff armed themselves with a . . . pistol . . . and standing at doorways . . . because somebody feels like something's going to happen." (Bannerman, 2016)

Montreat remained peaceful that day. Dr. King took the podium and spoke for nearly an hour to a crowd of hundreds, perhaps thousands. "The greatest challenge facing the church today is the racial situation," King said to the audience. After the speech and a question and answer session, King greeted the gathered crowd. One local resident and member of Black Mountain's Black community, Jessie Sherrill, impulsively asked for his autograph. (Swannanoa Valley Museum) King was escorted back to the airport. His flight took off just after 5:00pm without incident. (FBI, August 21, 1965)

Fifty years later, in commemoration of Dr. King's speech in Montreat, the Montreat Conference Center hosted another three-day conference in Anderson Auditorium entitled, "Dr. King's Unfinished Agenda: A Teach-In for Rededicating Ourselves to the Dream." Keynote speaker, activist and Pulitzer Prize winner Leonard Pitts, speaking exactly 50 years after King, from the same pulpit, said, "Half a century ago, Martin Luther King came to this place fresh from a riot in . . . Los Angeles to give a speech. In that speech he said a lot of things that he had said in other places. He spoke, for instance, of the neutrality of time; the fact that while people think that time makes change, it is actually people who make change in time. He spoke of the inter-relatedness of life, the fact that we are—as he liked to put it—threads in a single garment of destiny. But he also said some things that he did not say every place else. I'm not sure if he said them any place else, but I know he didn't say

This project is made possible by funding from the William G. Pomeroy Foundation.

them very often. The title of the speech was 'The Church on the Frontier of Racial Tension' but if you listen closely, much of what Dr. King had to say was actually about the church's failure to be on that frontier, about its moral timidity, its refusal to lead in the cause of justice. 'People of faith' said Dr. King, 'have an obligation to speak up for racial justice' but . . . 'we must admit . . . that all too often the church has been lax at this point. All too often, in the midst of social evil, too many Christians have somehow stood still only to mouth pious irrelevancies and sanctimonious trivialities. All too often, in the midst of racial injustice, too many Christians have remained silent behind the safe security of stained glass windows.' And so, here we are…."

E. Bibliography: (Primary and secondary sources.)

"Airliner Delayed By Threats," *The High Point Enterprise*, January 23, 1964.

Bannerman, Glenn and Evelyn. Oral History by Mary Page Boyd, January 10, 2016. Quoted in Boyd, Mary Page senior thesis.

Branch, Taylor, *Pillar of Fire: American in the King Years, 1963-1965,* New York: Simon & Schuster, 1999.

Boyd, Mary Page, "The Contest Public Memory of Race In Montreat, NC," Senior Thesis, UNC-Chapel Hill, 2016.

"Church Integration Gain Slow, King Says," *The Balitmore Sun*, January 21, 1964.

"Church Meet Guarded For Martin Luther King's Visit," *The Daily Times-News*, August 21, 1965.

"Church Must Heal, Not Flee, Race Woes, Says Dr. King," *The Charlotte Observer*, August 22, 1965.

Daugherty, Inez. Oral History by Donna Kelly, April 28, 2005, Swannanoa Valley Museum & History Center Oral History Collection.

Daugherty, Inez. Oral History by Jerry Pope, March 17, 2003, Swannanoa Valley Museum & History Center Oral History Collection.

Dills, John C. "Evangelist Sees World on Fire," *Asheville Citizen*, August 16, 1965.

"Don't Visit N.C., Dr. King Told," *The Charlotte Observer*, August 17, 1965.

"Dr. King To Appear At Montreat Today," *Asheville Citizen*, August 21, 1965.

Elliston, Jon. "Through the Fires: Martin Luther King Jr. Visited WNC at Tow Turning Points that Shaped the Civil Rights Struggle." *WNC Magazine,* January 2016. https://wncmagazine.com/through-fires

Elliston, Jon. "Tracking MLK: FBI records reveal surveillance, threats during WNC visits," *Carolina Public Press*, January 20, 2020. https://carolinapublicpress.org/24014/tracking-king-fbi-records-reveal-surveillance-threats-during-wnc-visits/

This project is made possible by funding from the William G. Pomeroy Foundation.

Federal Bureau of Investigation, "Documents on Martin Luther King in western North Carolina, 1963-1965." https://s3.documentcloud.org/documents/2691004/FBI-documents-on-MLK-in-WNC.pdf

Green, Lewis. "Bomb Hoax Delays Departure of King," *Asheville Citizen*, January 23, 1964.

Green, Lewis. *Of Human Interest*. New York: iUniverse, Inc., 2003.

Kamin, Ben. *Dangerous Friendship: Stanley Levison, Martin Luther King Jr., and the Kennedy Brothers.* Michigan State University Press, 2014.

King, Jr., Martin Luther, Statement on the passage of the Civil Rights Act of 1964, June 19, 1964.

King, Jr., Martin Luther, "The Church on the Forefront of Racial Tension," (speech, Christian Action Conference, Montreat, NC, August 21-23, 1965). https://www.youtube.com/watch?v=kF5VVPzcM9s

"King Cancels Thursday Talk At Montreat," *Asheville Citizen*, August 19, 1965.

"King Says Churches Most Segregated Area," *The Charlotte Observer*, January 21, 1964.

"King's Montreat Talk Already Stirs Unrest," *Asheville Citizen*, August 6, 1965.

"King, Others To Take Part In Race Parley," *Asheville Citizen*, August 18, 1965.

"King Says N.C. Reasonable State," *The Charlotte News*, January 21, 1964.

"Martin Luther King, Jr.'s Nobel Prize," Civil Rights Digital Library, http://crdl.usg.edu/events/mlk_nobel_prize

"Montreat Speaker Hits L.A. Rioting," *The Daily Independent*, August 20, 1965.

"Newest Trend, Montreat Speaker Says Of L.A. Riots," *Asheville Citizen*, August 20, 1965.

Pitts, Leonard, "Keynote Address, Lecture, Dr. King's Unfinished Agenda: A Teach-In for Rededicating Ourselves to the Dream," Montreat, NC, August 21-23, 2015.

F. Proposed marker text (*Optional*; Each marker's title line will allow 15 characters. The five body lines can have 27 characters each, including spaces and punctuation.)**:**

MARTIN LUTHER KING, JR.
Held secret retreat here in 1964.
Gave public speech in 1965
urging the Church to act for
integration and equality.
Met with support and unrest.

MARTIN LUTHER KING, JR.
Chose Black Mountain conference
center, In-the-Oaks, for private
retreat in January 1964 to relax,
rejuvenate, and plan for the future
of the civil rights movement.

This project is made possible by funding from the William G. Pomeroy Foundation.

Application
2021 Cycle

NORTH CAROLINA CIVIL RIGHTS TRAIL

G. Applicant Checklist

X I represent a non-profit group with a 501(c)3 designation

-If so, please share what group: **Western North Carolina Historical Association, Inc.**

-If not, tell us more about you or your group:

☐ I have included a letter of support from the landowner granting permission for the marker to be installed

☐ I represent a Hometown Strong County (Anson, Burke, Caswell, Edgecombe, Graham, Halifax, Lenoir, Madison, Pasquotank, Robeson, or Swain)

- Hometown Strong county represented: ___________________

X I want to mark a:

☐ Protest, rally, or sit-in site

☐ Birthplace, childhood home, or primary residence of a civil rights icon

☐ Church or space where people organized

X Space or place where a civil rights icon visited, stayed, or spoke

☐ Educational institution

☐ Legal site or courthouse

(Check all that apply)

H. SUBMITTED BY:

Anne Chesky Smith
director@wnchistory.org
283 Victoria Road
Asheville, NC 28801
828-253-9231
Date: **10/21/2021**

To email application, please submit to: nccivilrightstrail@ncdcr.gov

Return address:

NC Civil Rights Trail Marker Program
NC African American Heritage Commission
4632 Mail Service Center
Raleigh, NC 27699-4632

This project is made possible by funding from the William G. Pomeroy Foundation.

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

March 14, 2022

NC African Heritage Commission
NC Civil Rights Trail Marker Program
NC African American Heritage Commission
4632 Mail Service Center
Raleigh, NC 27699-4632

Dear Commissioners:

Representing the Town of Montreat I write supporting the placement of a monument in Montreat NC commemorating the visit of Dr. Martin Luther King on August 21, 1965 to Mountain Retreat Association's Anderson Auditorium.

Dr. King's visit to Montreat was certainly the highlight of our year and should be remembered for all future generations. A monument recognizing the event is very appropriate to be included in the NC Civil Rights Trail Maker Program and we are proud and honored to be considered in this commemorative initiative.

Sincerely-

T R Helms

Tim R. Helms
Mayor

MONTREAT
CONFERENCE CENTER

Richard DuBose
President

PO Box 969
Montreat, NC 28757

828.419.9800

March 11, 2022

NC African American Heritage Commission
NC Civil Rights Trail Marker Program
NC African American Heritage Commission
4632 Mail Service Center
Raleigh, NC 27699-4632

Dear Commissioners:

Greetings from Montreat! I am privileged to serve as president of the Mountain Retreat Association (dba Montreat Conference Center) which this year celebrates its 125th anniversary. On behalf of our staff, our board and volunteers, and the thousands who come to Montreat each year, I would like to lend my voice of support for the application for a historical marker commemorating Dr. Martin Luther King, Jr.'s appearance at Anderson Auditorium in Montreat on August 21, 1965.

By the date of Dr. King's appearance, 1965 had already been a very long year, as materials included in the application make clear. Malcolm X had been assassinated exactly six months before. Marches in Selma and Montgomery had provoked violent response, nationwide attention, and outcry. The Watts neighborhood of Los Angeles earlier that very week had been engulfed in conflict.

I turned three years old in 1965. For me and for many who know Montreat, the fact that Dr. King addressed our Christian Action Conference here represents an astonishing but distant historical event. According to those who were there, it was a grace-filled occasion, perhaps one of the most important events in this part of Western North Carolina and a pivotal event in the life of the Presbyterian Church. Dr. King's visit has been pointed to with pride, but it has also provided the opportunity for us to reflect on the sad fact that many notable Presbyterians opposed his visit at the time.

On August 21st of 2015, the conference center convened an event marking the occasion's 50th anniversary: "Dr. King's Unfinished Agenda." More than one thousand people attended the three-day conference, during which nationally known speakers like John Lewis and William Barber led participants in a comparison of the struggles of 1965 to 2015. Questions like the following were asked: Where are we on Dr. King's agenda today? What is our role for the age we're living in now? What are the commitments to which each of us is called, that would be pastoral, prophetic and courageous? The assembled participants responded with calls to action.

History in Montreat is a living history. We move toward greater understanding as God provides the tools for us to do so. Each year, thousands of people – including many youth – flock to Anderson Auditorium for worship, programs, and other activities. The proposed marker would help compel our visitors and participants, as well as the surrounding community, to remember; it would also call us to the further work we need to do.

I am grateful for your consideration of this application for a marker in Montreat to be included on the North Carolina Civil Rights Trail and am happy to provide any further information that might inform your decision. Thank you again.

Sincerely,

Richard DuBose
President

TOWN OF BLACK MOUNTAIN
Agenda Item Summary
Meeting Date: April 11th, 2022

SUBJECT: Budget Amendment Underpass Pedestrian Connection

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5D
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Tammy Holland, Finance Director

BRIEF SUMMARY:

Budget Amendment to increase the budgeted expenditure amount for the underpass pedestrian connection. An increase in the expenditure amount is needed to complete the project within the guidelines set forth in the original plan. Pricing increased over the originally budgeted amount due to inflation in supply cost due to lack of availability. Additional, items previously thought to be completed by town staff are needed to be completed by contractor.

Budget Impact:

Increase Capital Outlay	Expense	44-10-5000-711	$23,000.00
Increase Transfer In	Revenue	44-00-0000-902	$23,000.00
Increase Transfer Out	Expense	10-00-5000-651	$23,000.00
Increase Appropriated Fund Balance	Revenue	10-00-3905-900	$23,000.00

**Increase in appropriated fund balance decreases the town's fund balance

MOTION FOR CONSIDERATION: To approve or deny the budget amendments

ATTACHMENTS: Budget Amendment

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: 03/29/22

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
44-10-5000-711	**CAPITAL OUTLAY-PEDESTRIAN CONNECT I-40**		**$23,000.00**
44-00-0000-902	**TRANSFER IN**	**$23,000.00**	
10-00-3905-900	**APPROPRIATED FUND BALANCE**	**$23,000.00**	
10-00-5000-651	**TRANSFER OUT**		**$23,000.00**
Total:		**$46,000.00**	**$46,000.00**

REASON FOR BUDGET AMENDMENT

Additional funds needed from general fund balance to complete funding on undperpass pedestrian connection. Originally quoted 20,000. Prices increased due to limited supplies and vendors. Additionaly, items previously thought to be completed by town staff are needed to be completed by contractor.

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

Baker Grading & Landscaping, Inc.
1000 Bat Cave Road
Old Fort, NC 28762
Tel. (828) 668-5060
Fax (828) 668-5065
info@bakergrading.com

Quotation

Client Contact	Town of Black Mountain Jessica Troutman	**Project:**	Community Garden Underpass
Address:	160 Midland Avenue Black Mountain, NC 28711	**Description:**	Swannanoa River Underpass Improvements Veterans Park
Date:	03/11/2022	**Date of Plans:**	Oct. 2020

ITEM	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
1	Mobilization	1	LS	$6,000.00	$6,000.00
2	Culvert Material Removal & Disposal	100	CY	$65.00	$6,500.00
3	Grading (ADA trail and swales)	1	LS	$19,000.00	$19,000.00
4	Asphalt Surface Course Paving ADA Approaches	2	EA	$4,950.00	$9,900.00
5	Safety Fence	30	LF	$2.00	$60.00
6	Silt Fence	150	LF	$2.00	$300.00
7	Permanent and Temporary Seeding & Mulching	1	LS	$950.00	$950.00
				Total	**$42,710.00**

Baker Grading & Landscaping Inc.

Charles Baker
Vice President

Accepted by,

Name & Title

Signature

Date

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: April 11, 2022

SUBJECT: Call for Public Hearing to Close Portion of Unopened, Platted Portion of Buckeye Street ***#R-22-04***

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5E
Department:	Planning & Development
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: A property has submitted a petition to close an unopened, platted portion of Buckeye Street (west end). The requested closure is approximately 130 feet in the length and 42 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. If closed, the right-of-way will be split down the middle with the Town receiving 20 feet of the right-of-way and the applicant receiving the other 20 feet. The Planning Board recommended the closure with a vote of 4-1, with Shawn Slome voting against the motion, at the March 28, 2022, meeting.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION: To call for the public hearing to close an unopened, platted portion of Buckeye Street to be held on Monday, June 13, 2022, at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Resolution of Intent ***#R-22-04***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting or as soon thereafter as possible.

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, June 13, 2022, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, June 13, 2022, at 6:00 p.m**. in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for a right-of-way closure for the unopened, platted portion of Buckeye Street (west end).

The meeting is open to the public.

Savannah Parrish
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, Savannah Parrish, Town Clerk at 419-9310 or by email at savannah.parrish@townofblackmountain.org.

Posted to the Town Bulletin Board 04/21/2022
Published in the Black Mountain News 04/28/2022, 05/05/2022, 05/12/2022, 05/19/2022

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN
160 Midland Avenue
Black Mountain, NC 28711

Town Council Regular Session
April 11, 2022
Agenda Item

RESOLUTION OF INTENT # *R-22-04*

RESOLUTION DECLARING THE INTENT OF THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF AN UNOPENED, PLATTED PORTION OF BUCKEYE STREET (WEST END) AND TO HOLD A PUBLIC HEARING ON THIS ISSUE JUNE 13, 2022

WHEREAS, G.S. 160A-299 authorizes the Town Council of the Town of Black Mountain to permanently close public streets or alleys; and

WHEREAS, one property owner has initiated a petition to close that unopened, platted portion of Buckeye Street (west end); and

WHEREAS, the Planning Board for the Town of Black Mountain did recommend that the unopened, platted portion of Buckeye Street (west end) be closed; and

WHEREAS, the Town Council of the Town of Black Mountain must set a public hearing to consider any comments concerning the above referenced request before taking any action; and

WHEREAS, in accordance therewith, the Town Council of the Town of Black Mountain desires to take the following actions:

DESCRIPTION:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina and being more particularly described as follows:

BEGINNING at the northwest corner of Lot 8, Block 2, as shown on that plat recorded in Plat Book 154 at Page 193, Buncombe County Registry, said lot corner being the intersection of the southern edge of Second Street, now known as Mountain Street, with the eastern edge of Swannanoa Avenue, as said street are shown on said plat; thence with the northern boundary of said Lot 8 South 88° 30' East 130 feet to the northeast corner of said Lot 8; thence North 02° 30' West 40 feet to a point in the northern edge of the right of way of Second Street, now known as Mountain Street, at a point in the southern boundary of the large unnumbered parcel in Block 28 of Plat Book 154 at Page 193, Buncombe County Registry; thence with the northern edge of Second Street North 88°30' West 130 feet to the intersection of the northern edge of Second Street with the eastern edge of Swannanoa Avenue; thence South 02° 30 East 40 feet to the BEGINNING, being that 130 foot portion of Second Street, now known as Mountain Street, adjoining the above described Lot 8 along the entirety of its northern boundary.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain:

TOWN OF BLACK MOUNTAIN
160 Midland Avenue
Black Mountain, NC 28711

Section 1. Pursuant to G.S. 160A-299, the Town Council declares its intent to close the unopened, platted portion of Buckeye Street (west end).

Section 2. A public hearing on the question of closing said street is hereby called at Town Hall, 160 Midland Avenue, Black Mountain, N.C. 28711 on Monday, June 13, 2022, at 6:00 p.m.

Section 3. Following the public hearing called hereby, the Town Council shall consider the passage of an order closing the street identified above.

Section 4. The Town of Black Mountain Town Clerk is hereby directed to publish this Resolution once a week for four successive weeks in the Black Mountain News, or other newspaper of general circulation in the area.

Section 5. The Town of Black Mountain Zoning Administrator is hereby directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution.

Section 6. The Town of Black Mountain Zoning Administrator is further directed to cause adequate notices of the proposed closing and of the public hearing to be posted as required by G.S. 160A-299.

I move the adoption of the foregoing resolution:

____
Council Member

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ this the 11th day of April, 2022.

ATTEST:

____
Larry B. Harris, Mayor

____
Savannah Parrish, Town Clerk

____
Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN
Agenda Item Summary
Meeting Date: April 11th , 2022

SUBJECT: Budget Amendment Black Mountain Beautification Committee Grant

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5F
Department:	Finance
Contact:	Tammy Holland, Finance Director
Presenter:	Tammy Holland, Finance Director

BRIEF SUMMARY: Parks and Recreation Department has been awarded a beautification grant from the Black Mountain Beautification Committee. This grant is to be used by the Town to restore beautification to the three-tiered planter at Lakeside. A budget amendment is needed to increase the revenue budget within the Beautification Committee Grant Revenue Line and to increase the expenditure budget within the Parks and Recreation Beautification Committee Grant Expense line to appropriate the amount of the grant to enable staff to use the award as the committee specified.

Budget Impact:

Increase Grant Revenue	10-00-3320-300	$750.00
Increase Grant Expense	10-82-6190-325	$750.00

MOTION FOR CONSIDERATION: To approve or deny the budget amendments

ATTACHMENTS: Budget Amendment

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: **03/30/22**

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-00-3320-300	**BEAUTIFICATION GRANT**		**$750.00**
10-82-6190-325	**BEAUTIFICATION COMMITTEE GRANT EXPENSE**	**$750.00**	
Total:		**$750.00**	**$750.00**

REASON FOR BUDGET AMENDMENT

Recognize Grant Award received from Black Mountain Beautification Committee for the Lakeview Center project

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

Applied 2/17/22

Black Mountain Beautification Committee

Black Mountain Beautification 2022 Seed Money Award

The Black Mountain Beautification Committee has created a Seed Money Award to be given to an applicant or applicants who submit a project that best exemplifies the mission of the Beautification Committee: honoring the natural beauty of the surrounding mountains, while seeking to reflect that beauty on the streets and in the lives of the citizens.

The focus of the work must be gardening related, within Black Mountain, and adding a little something extra to our town. We believe that "gardening related" can have a broad view, and we encourage you to use your imagination. The money for this project comes from proceeds raised at the Black Mountain Garden Sale. The amount of money awarded will not exceed $1500.00. This award is generally divided between several application projects.

The deadline for this application is Monday, March 14, 2022. Please visit the Beautification Committee website at: blackmountainbeautification.org, our Facebook page, Town Hall, Black Mountain Visitor Center (Chamber of Commerce) or the Black Mountain Library to receive additional applications.

Attached is the two page application. For more details contact Jean Chamberlain at 614-203-9241 or Gail Bromer at 203-260-0624.

Sincerely,
Jean Chamberlain
Jean Chamberlain
Seed Money Award Chair

Black Mountain Beautification Committee

2022 Seed Money Application

Must be received No Later Than Monday, March 14, 2022

Our Mission: The people of Black Mountain possess a cherished tradition of honoring the natural beauty of the surrounding mountains, all the while seeking to reflect that beauty on the streets and in the lives of its citizens.

Applicant: Lakeview Center Today's date: 2/17/22

Address: 401 Laurel Circle Dr.

Phone # 828-669-8610

Email Address: melinda.polites@tobm.org

How did you learn about the Seed Money Award?
from Committee volunteer

Describe your idea on how you can contribute to making Black Mountain a more beautiful place:
The large 3 tiered planter has a prominent location at Lake Tomahawk and Lakeview Center. It has become neglected and an eyesore during the past 2 years as our volunteer was no longer able to maintain the area. We plan to simplify the plantings with mass plantings of low maintenance plants that will add season long color and interest.

Black Mountain Beautification Committee

Please provide an estimated cost and an itemized list of your projected costs. Please prioritize your project goals in this itemization.

7- Knock out Roses 3 gal @ 35.00	$245
9- Muhly Grass (size availability) @ 25.00	$225
	$470.00
Soil Amendments	50.00
	$520.00

Is this a one-time maintenance free project? Yes X Mostly No______

If "No", how would this project be maintained?

Would require annual mulching and weeding provided by our Volunteers.

If you were awarded this money:

Project start date: Spring 2022 Project end date: Spring 2022

Seed Money Award checks should be made payable to:

Town of Black Mountain w/ Lakeview Center in the 'for' line.

Black Mountain Beautification Committee

We will notify all applicants by mid-March, 2022.

Mail applications to:

Jean Chamberlain, 13 Rantis Lane, Black Mountain, N.C. 28711

Guidelines for 2022 Seed Money Award

1. Money for this award is available as a result of the funds raised at the Garden Show and Sale.

2. Award maximum of $1500.00

3. The focus of the work is to be on a place located in Black Mountain.

4. On-going maintenance will not be a responsibility of the Beautification Committee.

5. Members and relatives of the Beautification Committee members are not eligible.

66-456/531

2204

BLACK MOUNTAIN PARKS AND GREENWAYS INC.

DATE Mar 28, 2022

PAY TO THE ORDER OF Town of Black Mountain $ 750.00

Seven hundred fifty and 00/xx DOLLARS

Security Features Included. Details on Back.

FIRST BANK

localfirstbank.com

MEMO Lakeview Center/Beautification

⑆053104568⑆ 701935881⑈ 02204

SPECIALTY GRAY

March 18, 2022

Dear Melinda,

Thank you for your thoughtful, well-organized application for the 2022 Seed Money Award from the Black Mountain Beautification Committee. Congratulations! We are pleased to announce that your Lakeview Center project has been awarded $750.00. The committee wanted to increase your monetary request so you and your team would have enough money to purchase plants for the lower tier of the planter and complete the project. The tiered planter will contribute so much to making our little community more beautiful and inviting to our residents and guests.

We would like to arrange a formal presentation of the check and take a photo with you and others in your group along with members of the Seed Money Award Committee. We will submit this photo, along with the article announcing the recipients of the 2022 award, in the Black Mountain News and the Valley Echo. We will also put this announcement on social media and the Beautification website. We would like to present the check to you and your group on Monday, March 28 between 10 and 11:00 am. Will this time work for you? Please let me know.

The Beautification Committee is so excited to support your project and please let us know if we can offer any help or suggestions.

Congratulations again!

Jean Chamberlain

Jean Chamberlain
614-203-9241

TOWN OF BLACK MOUNTAIN
TOWN COUNCIL
REQUEST FOR BOARD ACTION

Meeting Date: April 11th , 2022

SUBJECT: American Rescue Plan – Adoption of Policies and Procedures

AGENDA INFORMATION

Agenda Location: **NEW BUSINESS**
Item Number: 8A
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Tammy Holland, Finance Director

BRIEF SUMMARY:

The Final Rule for the American Rescue Plan was issued on January 6, 2022. That final rule contains a number of regulations that local governments must follow when expending Federal Funds, including a variety of policies and procedures.
The following required policies are being presented to the board to review and adopt as presented.

1. Allowable Costs and Cost Principles for American Rescue Plan Act
2. Nondiscriminatory Policy for American Rescue Plan Act
3. Record Retention Policy for American Rescue Plan Act
4. Eligible Project Policy for American Rescue Plan Act
5. Property Management Policy for American Rescue Plan Act
6. Financial and Internal Control Policy

MOTION FOR CONSIDERATION: Approve or deny the policy and procedures resolutions

ATTACHMENTS:

1. Allowable Costs and Cost Principles for American Rescue Plan Act
2. Nondiscriminatory Policy for American Rescue Plan Act
3. Record Retention Policy for American Rescue Plan Act
4. Eligible Project Policy for American Rescue Plan Act
5. Property Management Policy for American Rescue Plan Act
6. Financial and Internal Control Policy

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

Resolution # R-22-08

RESOLUTION
ALLOWABLE COSTS/COST PRINCIPLES

WHEREAS the Town of Black Mountain has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listing; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides, in relevant part:

> **Allowable Costs/Cost Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.
>
> ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that ARP/CSLFRF Funds may not be used for a non-

Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.

Treasury's Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

a. Administrative costs*:* Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the [ARP/CSLFRF] Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the ARP/CSLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the ARP/CSLFRF award such as the cost of facilities or administrative functions like a director's office. Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

b. Salaries and Expenses*:* In general, certain employees' wages, salaries, and covered benefits are an eligible use of ARP/CSLFRF award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

(a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.

(b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

(c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.

(d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.

(e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.

(f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of Federal awards for research must be recognized in the application of these principles.

(g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award;

BE IT RESOLVED that the governing board of Town of Black Mountain hereby adopts and enacts the following US Cost Principles Policy for the expenditure of ARP/CSLFRF funds.

ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

Town of Black Mountain shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Town Manager and Finance Director who are charged with the administration and financial oversight of the ARP/CSLFRF. Further, all local government employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to Finance Department. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

GENERAL COST ALLOWABILITY CRITERIA

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

1. **Be necessary and reasonable for the proper and efficient performance and administration of the grant program.**

   A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

   - Whether the cost is needed for the proper and efficient performance of the grant project.
   - Whether the cost is identified in the approved project budget or application.
   - Whether the cost aligns with identified needs based on results and findings from a needs assessment.
   - Whether the cost addresses project goals and objectives and is based on program data.

   A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

   - Whether the cost is a type generally recognized as ordinary and necessary for the operation of the Town of Black Mountain or the proper and efficient performance of the federal award.
   - The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
   - Market prices for comparable goods or services for the geographic area.
   - Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to Town of Black Mountain, its employees, the public at large, and the federal government.
   - Whether Town of Black Mountain significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.

2. **Be allocable to the ARP/CSLFRF federal award.** A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the

ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program. *For example, if 50 percent of a local government employee's salary is paid with grant funds, then the local government must document that the employee spent at least 50 percent of his/her time on the grant program.*

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

3. **Be authorized and not prohibited under state or local laws or regulations.**
4. **Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.**
5. **Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of Town of Black Mountain.**
6. **Be accorded consistent treatment.** A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
7. **Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UGG.**
8. **Be net of all applicable credits.** The term "applicable credits" refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms.
9. **Be adequately documented.**

SELECTED ITEMS OF COST

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420-.475.

Finance Department personnel responsible for determining cost allowability must be familiar with the Selected Items of Cost. The Town of Black Mountain must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. Finance Department personnel will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, State laws, Town of Black Mountain regulations, and program-specific rules may deem a cost as unallowable, and all personnel must follow those non-federal rules as well.

Exhibit A identifies and summarizes the Selected Items of Cost.

DIRECT AND INDIRECT COSTS

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Direct costs are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of a grant-eligible project.

Indirect costs are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

For indirect costs, the Town of Black Mountain may charge a 10 percent de minimis rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance the subawards under the award). MTDC EXCLUDES equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.

SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

> **§ 200.444 General costs of government.**
>
> **(a)** For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in § 200.475). Unallowable costs include:
>
> **(1)** Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;
>
> **(2)** Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
>
> **(3)** Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils of Governments (COGs) (see definition for *Local government* in § 200.1 of this part), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

§ 200.416 Cost allocation plans and indirect cost proposals.

(a) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:

(1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and

(2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to this part.

§ 200.417 Interagency service.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

COST ALLOWABILITY REVIEW PROCESS

PREAPPROVAL COST ALLOWABILITY REVIEW

Before an ARP/CSLFRF-funded project is authorized, Finance Department must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- Local government personnel must submit proposed ARP/CSLFRF projects to the Finance Director and Town Manager for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- Along with a general review of project eligibility and conformance with other governing board management directives, Department Heads and Finance Department must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury.
- If a proposed project includes a request for an unallowable cost, the Finance Department will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.
- Once a proposed project budget is pre-approved by Finance Department, the local government personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

POST-EXPENDITURE COST ALLOWABILITY REVIEW

Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the local government, Finance Department must perform a second review to ensure that actual expenditures comprise allowable costs.

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Finance Department will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.

- The Finance Department must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.

- If all cost items are deemed allowable and properly allocable, the Finance Department must proceed through the local government's normal disbursement process.

- If any cost item is deemed unallowable, the Finance Department will notify the employee overseeing the project and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds.

The Finance Department may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the Town remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. Town of Black Mountain's governing board must approve any allocation of other funds for this purpose.

- The Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

COST TRANSFERS

Any costs charged to the ARP/CSLFRF federal award that do not meet the allowable cost criteria must be removed from the award account and charged to an account that does not require adherence to federal UGG or other applicable guidelines.

Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs and discontinuance of funding.

Duly adopted by the Town Council of Black Mountain on this the 11th day of April 2022.

Larry B. Harris
Mayor

ATTEST:

Savannah Parrish
Town Clerk

EXHIBIT A

Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 CFR § 200.421	Allowable with restrictions
Advisory councils	2 CFR § 200.422	Allowable with restrictions
Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Not specifically addressed
Audit services	2 CFR § 200.425	Allowable with restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Not specifically addressed
Compensation – personal services	2 CFR § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5))
Compensation – fringe benefits	2 CFR § 200.431	Allowable with restrictions
Conferences	2 CFR § 200.432	Allowable with restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with exceptions
Contributions and donations	2 CFR § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)

Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435	Allowable with restrictions
Depreciation	2 CFR § 200.436	Allowable with qualifications
Employee health and welfare costs	2 CFR § 200.437	Allowable with restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with exceptions
Equipment and other capital expenditures	2 CFR § 200.439	Allowability based on specific requirement
Exchange rates	2 CFR § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with exceptions
Fund raising and investment management costs	2 CFR § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200.443	Allowable with restrictions
General costs of government	2 CFR § 200.444	Unallowable with exceptions
Goods and services for personal use	2 CFR § 200.445	Unallowable (goods/services); allowable (housing) with restrictions
Idle facilities and idle capacity	2 CFR § 200.446	Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with restrictions
Intellectual property	2 CFR § 200.448	Allowable with restrictions
Interest	2 CFR § 200.449	Allowable with restrictions
Lobbying	2 CFR § 200.450	Unallowable
Losses on other awards or contracts	2 CFR § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)

Maintenance and repair costs	2 CFR § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 CFR § 200.455	Unallowable except federal prior approval
Participant support costs	2 CFR § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 CFR § 200.457	Allowable; capital expenditures are subject to § 200.439
Pre-award costs	2 CFR § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 CFR § 200.459	Allowable with restrictions
Proposal costs	2 CFR § 200.460	Allowable with restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 CFR § 200.463	Allowable with restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 CFR § 200.466	Not specifically addressed
Selling and marketing costs	2 CFR § 200.467	Unallowable with exceptions

Specialized service facilities	2 CFR § 200.468	Allowable with restrictions
Student activity costs	2 CFR § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with restrictions
Termination costs	2 CFR § 200.471	Allowable with restrictions
Training and education costs	2 CFR § 200.472	Allowable for employee development
Transportation costs	2 CFR § 200.473	Allowable with restrictions
Travel costs	2 CFR § 200.474	Allowable with restrictions
Trustees	2 CFR § 200.475	Not specifically addressed

Resolution # R-22-06

RESOLUTION
NONDISCRIMINATION POLICY FOR
AMERICAN RESCUE PLAN ACT OF
2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

WHEREAS, the Town of Black Mountain has received an allocation of funds from the "Coronavirus State Fiscal Recovery Fund" or "Coronavirus Local Fiscal Recovery Fund" (together "CSLFRF funds"), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the "ARP/CSLFRF award").

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury ("Treasury") regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the Town of Black Mountain agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

RESOLVED, That the governing board of the Town of Black Mountain hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Nondiscrimination Policy Statement

It is the policy of the Town of Black Mountain to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by the Town of Black Mountain, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF"), which the Town of Black Mountain received from the U.S. Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the "ARP/CSLFRF award").

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF Award Terms and Conditions, the Town of Black Mountain shall ensure that each "activity," "facility," or "program"[1] that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and
v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

[1] 22 C.F.R. § 22.3 defines "program" and "activity" as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. "Federal financial assistance" includes, among other things, grants and loans of federal funds. "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

II. **Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award**

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the Town of Black Mountain shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. **Reporting & Enforcement**

1. The Town of Black Mountain shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Town of Black Mountain shall comply with information requests, on-site compliance reviews, and reporting requirements.

2. The Town of Black Mountain shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the

complaint, whether pending or completed, including the outcome. The Town of Black Mountain shall inform the Treasury if it has received no complaints under Title VI.

3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.

4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the Town of Black Mountain in violation of this policy should contact the Human Resource office at 828-419-9309 within 180 days from the date of the alleged discriminatory occurrence:

Duly adopted by the Town Council of Black Mountain on this the 11th day of April 2022.

____

Larry B. Harris
Mayor

ATTEST:

____

Savannah Parrish
Town Clerk

Resolution # R-22-09

RESOLUTION
RECORD RETENTION POLICY FOR
AMERICAN RESCUE PLAN ACT OF
2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

WHEREAS, the Town of Black Mountain has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together “CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the Town of Black Mountain agrees to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award.

RESOLVED, That the governing board of the Town of Black Mountain hereby adopts and enacts the following Record Retention Policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Record Retention Policy Statement

It is the policy of the Town of Black Mountain to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the Town of Black Mountain agrees to the following:

- Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.

- Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.

- Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of right of timely and unrestricted access to any records for the purpose of audits or other investigations.

- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Covered Records: For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the Town of Black Mountain's expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

- Financial statements and accounting records evidencing expenditures of CSLFRF for eligible projects, programs, or activities.
- Documentation of rational to support a particular expenditure of CSLFRF (e.g., expenditure constitutes a general government service);
- Documentation of administrative costs charged to the ARP/CSLFRF award;
- Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- Subaward agreements and documentation of subrecipient monitoring;
- Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- Indirect cost rate proposals

Storage: Town of Black Mountain's records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Departmental Responsibilities: Any department or unit of the Town of Black Mountain, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject the Town of Black Mountain to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The Town Clerk is responsible for identifying the documents that Town of Black Mountain must or should retain and arrange for the proper storage and retrieval of records. The Town Clerk shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

Reporting Policy Violations: The Town of Black Mountain is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of the Town Clerk. The Town of Black Mountain prohibits, any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

Questions About the Policy: Any questions about this policy should be referred to the Town Clerk, who is in charge of administering, enforcing, and updating this policy.

Duly adopted by the Town Council of Black Mountain on this the 11th day of April 2022.

Larry B. Harris
Mayor

ATTEST:

Savannah Parrish
Town Clerk

Resolution # R-22-05

RESOLUTION
ELIGIBLE PROJECT POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

WHEREAS the Town of Black Mountain, has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;

2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;

3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,

5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the Assistance Listing; and

WHEREAS US Treasury has issued a Compliance and Reporting Guidance v.2.1 (November 15, 2021) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states on page 6 that

> Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

BE IT RESOLVED that the Town of Black Mountain hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds

This policy defines the permissible and prohibited uses of the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also outlines the procedures for determining how Town of Black Mountain will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its **Final Rule** regarding use of ARPA funds on January 6, 2022. (The Final Rule is effective as of April 1, 2022. Until that date, a local government may proceed under the regulation promulgated by US Department of the Treasury in its **Interim Final Rule** or the Final Rule.) The Final Rule (and the Interim Final Rule) identify permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocate ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARPA funds.

ARP/CSLFRF funds may be used for projects within the following categories of expenditures:

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

II. PROHIBITED USES OF ARPA FUNDING

The ARP/CSLFRF and US Treasury's Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for projects within the following categories of expenditures:

1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);

2. To borrow money or make debt service payments;

3. To replenish rainy day funds or fund other financial reserves;

4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the Town of Black Mountain to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);

5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;

6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318(c).

7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The Town of Black Mountain, and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

III. PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project approvals. All Town of Black Mountain employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding, must be made in writing and include all the following: Project Request and Eligibility Form attached.
    a. Brief description of the project
    b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in in the Appendix to the US Treasury Compliance and Reporting Guidance.)
    c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARPA funding should review the Final Rule and Final Rule Overview prior to submitting a proposal.
    d. Proposed budget, broken down by cost item, in accordance with the Town of Black Mountain's Allowable Cost Policy.
    e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)
2. Requests for funding must be submitted to Finance Director for approval. All requests will be reviewed by Finance Director for ARP/CSLFRF compliance for allowable costs and other financial review.

3. No ARP/CSLFRF may be obligated or expended before final written approval by Finance Director. BOARD PROJECT ORDINANCE APPROVAL AND BUDGET AMENDMENTS WILL BE REQUIRED BEFORE APPROVAL
4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.
5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by Finance Director and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the Finance Director immediately.
6. Finance Director must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.
7. Finance Director must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

Duly adopted by the Town Council of Black Mountain on this the 14th day of March 2022.

Larry B. Harris
Mayor

ATTEST:

Savannah Parrish
Town Clerk

Program/Project #:
Program/Project Short Name:

American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recover Fund Project Request and Eligibility Determination

This document is to be completed by the person or persons requesting American Rescue Plan Act of 2021 Coronavirus State and Local Government Fiscal Recovery Fund monies. The request with proceed through the Town of Black Mountain's review process. The requestor will receive notice if the project is approved, with instructions on how to proceed.

BASIC INFORMATION AND DESCRIPTION

Program/Project Name:	
Program/Project Description:	
Responsible Department:	
Program/Project Manager Name:	
Total Amount Requested:	
Internal Account Code(s): (assigned by Finance)	
Treasury Expenditure Category Level:	Choose an item.
Treasury Expenditure Category:	Choose an item.

ELIGIBILITY REVIEW

Please select appropriate ARP/CSLFRF Category below and complete the required information. Note that each requested project may only be associated with one of the following categories: 1. Public Health; 2. Negative Economic Impact; 3. Premium Pay; 4. Water, Sewer, Stormwater Infrastructure; 5. Broadband; or 6. Revenue Replacement (Government Services). Please complete all information in the applicable category and attach any required additional justifications and documentation.

1. Public Health

A. Enumerated Uses/ Safe Harbors (Must select one)

☐ COVID-19 mitigation & prevention*
☐ Medical expenses*
☐ Behavioral health care*
☐ Preventing & responding to violence*
☐ **Not on Enumerated List (Must complete Box B.)**

**See detailed list of enumerated projects in each of these categories on pages 14-16 of the Overview of the Final Rule.*

B. Written Justification (Please provide detailed responses to both these questions if checked "Not on Enumerated List" in Box A)

(1) What is the specific negative public health impact or harm experienced by an individual or a class?

(2) How does proposed project address the negative public health impact or harm?

C. Is the **project reasonably designed to benefit** the individual or class that experienced a public health impact or harm?	☐Yes	☐No
D. Is the project **related and reasonably proportional** to the extent and type of public health impact or harm experienced?	☐Yes	☐No

E. Does proposed project involve a capital expenditure between $1 million and $10 million?	☐Yes – Proceed to Box F.	☐No – Proceed to Box G.
F. Is proposed project on enumerated list in Box A? **Written justification must include the following elements:* • *Describe the harm or need to be addressed;* • *Explain why a capital expenditure is appropriate; and* • *Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.*	☐Yes – Record written justification* in file, but not required in Project & Expenditure Reports	☐No – Record written justification* in file and include in Project & Expenditure Reports
G. Does the proposed project involve a capital expenditure of $10 million or more?	☐Yes – Record written justification* for file and include in Project & Expenditure Reports	☐No – No further action required.

2. Negative Economic Impact

A. Enumerated Beneficiaries (Must select one)

**See detailed list of enumerated beneficiaries and income on pages 17 & 19 of the Overview of the Final Rule.*

Beneficiaries Who Experience Negative Economic Impact from the Pandemic

☐ Low-moderate income households or communities
☐ Household that experienced unemployment
☐ Households that experienced increased food or housing insecurity
☐ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund Program, or Medicaid
☐ When providing affordable housing programs: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
☐ When providing services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period
☐ Small business that experienced decreased revenue or gross receipts, increased costs, financial insecurity, or other financial challenges due to the pandemic
☐ Nonprofit the experienced decreased revenue, increased costs, financial insecurity, or other financial challenges due to the pandemic
☐ Travel, tourism, hospitality industries
☐ Other industry that experienced at least 8% employment loss from pre-pandemic levels or is experiencing comparable or worse economic impacts as national tourism, travel, and hospitality sector
☐ Local government

Beneficiaries Who Experienced Disproportionately Negative Economic Impact from the Pandemic

☐ Low-income households and communities
☐ Households residing in a Qualified Census Tract (QCT)
☐ Households that qualify for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.
☐ Small businesses operating in a Qualified Census Tract (QCT)
☐ Nonprofits operating in a Qualified Census Tract (QCT)

☐ **Not on enumerated list (Must complete Box B.)**

B. Written Justification (Provide detailed response to this question if proposed beneficiary not on enumerated list in Box A)

Define the group/class/geographical area that experienced a negative economic impact from the COVID-19 pandemic. Be specific in defining group/class/area and in defining the negative economic impact to the group/class/area.

C. Enumerated / Safe Harbor Projects (Must Select One)

Projects for Negatively Economically Impacted

Households & Communities

☐ Food assistance & food banks

☐ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness

☐ Health insurance coverage expansion

☐ Benefits for surviving family members of individuals who have died from COVID-19

☐ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly- employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers

☐ Financial services for the unbanked and underbanked

☐ Burials, home repair & home weatherization

☐ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access

☐ Cash assistance

☐ Paid sick, medical, and family leave programs

☐ Assistance in accessing and applying for public benefits or services

☐ Childcare and early learning services, home visiting programs, services for child welfare- involved families and foster youth & childcare facilities

☐ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)

☐ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing

Small Businesses

☐ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs

☐ Technical assistance, counseling, or other services to support business planning

Nonprofits

☐ Loans or grants to mitigate financial hardship

☐ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Travel, Tourism, Hospitality Industry

Projects for Disproportionately Negatively Economically Impacted

Households & Communities

☐ Pay for community health workers to help households access health & social services

☐ Remediation of lead paint or other lead hazards

☐ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities

☐ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity

☐ Investments in neighborhoods to promote improved health outcomes

☐ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing

☐ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs

☐ Schools and other educational equipment & facilities

Small Businesses

☐ Rehabilitation of commercial properties, storefront improvements & façade improvements

☐ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses

☐ Support for microbusinesses, including financial, childcare, and transportation costs

☐ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
☐ Technical assistance, counseling, or other services to support business planning
☐ COVID-19 mitigation and infection prevention measures (see section Public Health)

Local Government
☐ Public safety, public health, and human services salaries/benefits, to extent responding to the COVID-19 public health emergency
☐ Restoring pre-pandemic employment levels
☐ Effective service delivery

☐ **Not on enumerated list (Must proceed to Box D.)**

D. Written Justification (Provide detailed response to this question if proposed project not on enumerated list in Box C.)

(1) What is the specific negative economic impact or harm caused or exacerbated by the pandemic?

(2) How does the proposed project address the impact or harm?

E. Is the **project reasonably designed to benefit** the individual or class that experienced a public health impact or harm?	☐Yes	☐No
F. Is the project **related and reasonably proportional** to the extent and type of public health impact or harm experienced?	☐Yes	☐No
G. Does proposed project involve a capital expenditure between $1 million and $10 million?	☐Yes – Proceed to H.	☐No – Go to Box I.
H. Is proposed project on enumerated list in Box C? **Written justification must include the following elements:* • *Describe the harm or need to be addressed;* • *Explain why a capital expenditure is appropriate; and* • *Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.*	☐Yes – Record written justification* for file, but not required in Project & Expenditure Reports	☐No – Record written justification* for file and include in Project & Expenditure Reports
I. Does the proposed project involve a capital expenditure of $10 million or more?	☐Yes – Record written justification* for file and include in Project & Expenditure Reports	☐No – No further action needed

3. Premium Pay

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(c). (More details on this expenditure category are available here.)

4. Water, Sewer, Stormwater Infrastructure

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(1).

5. Broadband Infrastructure

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(2).

6. Revenue Loss

This portion of ARP/CSLFRF funds may be used for the provision of government services. Please provide description of project and attach any necessary documentation. Note that water, sewer, stormwater, and broadband projects may be funded in this category, without having to meet all of the criteria specified in the other categories.

PROHIBITIONS VERIFICATION:

By checking these boxes, the [NAME REVIEWING PERSONNEL HERE] attests that the statements are true.

☐ Project does not contravene the statutory purpose of ARP, including program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19
☐ No Conflict of Interest
☐ Complies with all state and federal laws and local ordinance
☐ No pension fund deposit
☐ No borrowings or debt service
☐ No financial reserves

JUSTIFICATION AND LEGAL REVIEW FOR STATE AUTHORITY:

Program Administration Information

Proposed Project Budget, delineated by Cost Item for Allowable Cost Review

U.G. Provisions	Cost Items	Estimated Amount	Necessary/ Reasonable	% Allocable	Required Documentation
200.430	Compensation		Choose an item.		
200.431	Fringe Benefits		Choose an item.		
200.475	Travel		Choose an item.		
200.439	Equipment & Other Capital		Choose an item.		
200.453	Materials & Supplies		Choose an item.		
200.318 & 200.92	Contractual Services & Subawards		Choose an item.		
200.459	Consultants / Professional Services		Choose an item.		
200.465	Occupancy (Rent & Utilities)		Choose an item.		
200.471	Telecommunications		Choose an item.		
200.473	Training & Education		Choose an item.		
200.413 (c)	Direct Administrative Costs		Choose an item.		
	Add'l Cost Item		Choose an item.		
	Total Direct Costs		Choose an item.		
200.414	Indirect Costs		Choose an item.		
	Total Project Budget				

Program/Project #:
Program/Project Short Name:

Administrative Classification

Administration Type	☐ In-House	☐ Contractor/Vendor	☐ Sub-Recipient/Subaward
If Contractor/Vendor or Sub-recipient, has this been verified using the Classification Checklist?		☐ Yes	☐ No

Program Sub-Recipient and/or Contractor List:

Name	Tax ID #	Completion of Classification Checklist?	Contractor or Sub-Recipient	DUNS #/UEI	Date checked SAM.gov
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		

Key Project Dates

Due Date	Task Type	Task Description	Status
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.

Additional Suggested Materials for Attachment (as needed):

Equity Worksheet,

Risk Assessment

Monitoring Plan

Agreements

Project & Expenditure Report Tracking Tool

Resolution # R-22-10

RESOLUTION
PROPERTY MANAGEMENT POLICY FOR
AMERICAN RESCUE PLAN ACT OF
2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

WHEREAS the Town of Black Mountain, has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listing; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (v2.1 November 2021) provides, in relevant part:

> **Equipment and Real Property Management.** Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

WHEREAS Subpart D of the UG dictates title, use, management, and disposal of real property, equipment, and supplies acquired in whole or in part with ARP/CSLFRF funds;

BE IT RESOLVED that the governing board of Town of Black Mountain hereby adopts and enacts the following UG Property Management Policy for the expenditure of ARP/CSLFRF funds.

Property Standards for Real Property, Equipment, and Supplies Acquired with American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds

I. POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, details post award requirements related to property management of property acquired or updated, in whole or in part, with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF).

2 CFR 200.311 through 2 CFR 200.316 detail property standards related to the expenditure of ARP/CLSFRF funds. The Town of Black Mountain, hereinafter referred to as Town shall adhere to all applicable property standards, as detailed below.

II. DEFINITIONS

The following definitions from 2 CFR 200.1 apply in this policy.

Computing devices: machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. See also the definitions of supplies and information technology systems in this section.

Equipment: tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Town for financial statement purposes, or $5,000. See also the definitions of *capital assets, computing devices, general purpose equipment, information technology systems, special purpose equipment,* and *supplies* in this section.

Information technology systems: computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

Intangible property: property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Personal property: property other than real property. It may be tangible, having physical existence, or intangible.

Property: real property or personal property.

Real property: land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Supplies: all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the local government for financial statement purposes or $5,000, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

III. REAL PROPERTY

Title to Real Property: Title to real property acquired or improved with ARP/CSLFRF funds vests with the Town. 2 CFR 200.311(a).

Use of Real Property: Real property acquired or improved with ARP/CSLFRF funds must be used for the originally authorized purpose as long as needed for that purpose, during which time the Town must not dispose of or encumber its title or other interests. 2 CFR 200.311(b).

Insurance of Real Property: The Town must provide the equivalent insurance coverage for real property acquired or improved with ARP/CSLFRF funds as provided to property owned by the Town. 2 CFR 200.310.

Disposition of Real Property: When the Town no longer needs real property purchased with ARP/CSLFRF for ARP/CSLFRF purposes, the Town must obtain disposition instructions from US Treasury. The instructions must provide for one of the following alternatives:

1. The Town retains title after compensating US Treasury. The amount paid to US Treasury will be computed by applying US Treasury's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the Town is disposing of real property acquired or improved with ARP/CSLFRF funds and acquiring replacement real property under the ARP/CSLFRF, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
2. The Town sells the property and compensates US Treasury. The amount due to US Treasury will be calculated by applying US Treasury's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the ARP/CSLFRF award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the Town is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
3. The Town transfers title to US Treasury or to a third party designated/approved by US Treasury. The Town is entitled to be paid an amount calculated by applying the Town's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property. 2 CFR 200.311(c).

IV. EQUIPMENT

Title to Equipment: Title to equipment acquired or improved with ARP/CSLFRF funds vests with the Town. 2 CFR 200.313(a).

Use of Equipment: The Town must use equipment acquired with ARP/CSLFRF funds for the project for which it was acquired as long as needed, whether or not the project continues to be supported by the ARP/CSLFRF award, and the Town must not encumber the property without prior approval of US Treasury. 2 CFR 200.313(a)(1)-(2).

When no longer needed for the original project, the equipment may be used in other activities supported by a Federal awarding agency, in the following order of priority:

1. Activities under a Federal award from the Federal awarding agency which funded the original project, then
2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems. 2 CFR 200.313(c)(1).

During the time that equipment is used on the project for which it was acquired, the Town must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by US Treasury and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 CFR 200.313(c)(2).

Noncompetition: The Town must not use equipment acquired with the ARP/CSLFRF funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment. 2 CFR 200.313(c)(3).

Replacement Equipment: When acquiring replacement equipment, the Town may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 CFR 200.313(c)(4).

Management of Equipment: The Town will manage equipment (including replacement equipment) acquired in whole or in part with ARP/CSLFRF funds according to the following requirements.

1. The Town will maintain sufficient records that include
   a) a description of the property,
   b) a serial number or other identification number,
   c) the source of funding for the property (including the Federal Award Identification Number (FAIN)),
   d) who holds title,
   e) the acquisition date,
   f) cost of the property,
   g) percentage of Federal participation in the project costs for the Federal award under which the property was acquired,
   h) the location, use and condition of the property, and

i) any ultimate disposition data including the date of disposal and sale price of the property.

2. The Town will conduct a physical inventory of the property and reconcile results with its property records at least once every two years.

3. The Town will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by the Town.

4. The Town will develop and implement adequate maintenance procedures to keep the property in good condition.

5. If the Town is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and federal law.

Insurance of Equipment: The Town must provide the equivalent insurance coverage for equipment acquired or improved with ARP/CSLFRF funds as provided to property owned by the Town. 2 CFR 200.310.

Disposition of Equipment: When the equipment is no longer needed for its original ARP/CSLFRF purpose, the Town may either make the equipment available for use in other activities funded by a Federal agency, with priority given to activities funded by US Treasury, dispose of the equipment according to instructions from US Treasury, or follow the procedures below. 2 CFR 200.313(e).

1. Equipment with a per-item fair market value of less than $5,000 may be retained, sold or transferred by the Town, in accordance with state law, with no additional responsibility to US Treasury;
2. If no disposal instructions are received from US Treasury, equipment with a per-item fair market value of greater than $5,000 may be retained or sold by the Town. The Town must establish proper sales procedures, in accordance with state law, to ensure the highest possible return. The Town must reimburse US Treasury for its federal share. Specifically, US Treasury is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the ARP/CSLFRF funding percentage of participation in the cost of the original purchase. If the equipment is sold, US Treasury may permit the Town to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
3. Equipment may be transferred to US Treasury or to a third-party designated by US Treasury in return for compensation to the Town for its attributable compensation for its attributable percentage of the current fair market value of the property.

V. SUPPLIES

Title to Supplies. Title to supplies acquired with ARP/CSLFRF funds vests with the Town upon acquisition. 2 CFR 200.314(a).

Use and Disposition of Supplies: If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the ARP/CSLFRF project and the supplies are not needed for any other Federal award, the Town must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 CFR 200.314(a).

Noncompetition. As long as the Federal Government retains an interest in the supplies, the Town must not use supplies acquired under the ARP/CSLFRF to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute. 2 CFR 200.314(b).

VI. PROPERTY TRUST RELATIONSHIP

Real property, equipment, and intangible property, that are acquired or improved with ARP/CSLFRF funds must be held in trust by the Town as trustee for the beneficiaries of the project or program under which the property was acquired or improved. US Treasury may require the Town to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. 2 CFR 200.316.

VII. IMPLEMENTATION OF POLICY

Finance Director shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with ARP/CLSFRF funds. At a minimum, those procedures must address the following:

- Ensure proper insurance of property
- Document proper use of property
- Working with finance staff to record and maintain required data records for equipment
- Conduct periodic inventories of equipment, at least every two years
- Create processes for replacement and disposition of property
- Establish other internal controls to safeguard and properly maintain property

Duly adopted by the Town Council of Black Mountain on this the 11th day of April 2022.

____

Larry B. Harris
Mayor

ATTEST:

____

Savannah Parrish
Town Clerk

Resolution # R-22-07

RESOLUTION
FINANCIAL AND INTERNAL CONTROL POLICY

WHEREAS the Town of Black Mountain, has a responsibility to provide taxpayers with reasonable assurance that government finances are adequately controlled; and

WHEREAS an environment with strong internal controls reflects the reliability of the accounting records and financial statements; and

WHEREAS strong internal controls aid in the prevention of fraud and the detection of accidental errors and oversight in the accounting process; and

WHEREAS cash handling procedures are necessary to ensure proper internal controls, segregation of duties, and adequate safeguard of the Town's assets; and

WHEREAS to fully maximize the use of public monies is in the best interest of the public; and

WHEREAS it is the desire of the Town of Black Mountain Council to have firm guidelines in place to detail the Town's handling of funds

BE IT RESOLVED that the governing board of Town of Black Mountain hereby adopts and enacts the following Financial Policy for the Town of Black Mountain.

Duly adopted by the Town Council of Black Mountain on this the 11th day of April 2022.

Larry B. Harris
Mayor

ATTEST:

Savannah Parrish
Town Clerk

Town of Black Mountain Financial and Internal Control Policy

Authority: North Carolina General Statutes; Governmental Accounting StandardsBoard Standards and Guidance

Review Responsibility: Finance Director

Date: March 14, 2022

Table of Contents

INTRODUCTION

This policy is to serve as guidance for all Town departments in execution of financial operations within the Town of Black Mountain organization. While it does not address all possible scenarios relatedto financial operations in the Town, it does create a framework to allow the Town to meet the needs of its citizens, as well as the goals and priorities set forth by Town Council.

Any exception or override to the policies listed in this document will require written approval by the Finance Director, the Town Manager, or his/her designee.

Upon activation of the Town of Black Mountain Emergency Operations Plan, this policy is hereby inactive, and the Town of Black Mountain will follow the financial operation policies and procedures outlined in the Emergency Operations Plan.

Thispolicy shall be effective immediately upon Town Council approval and shall supersede all previous financial policies.

The Finance Director shall monitor and enforce financial operations for the Town,as outlined by this policy document. This includes signing Town of Black Mountain purchase orders, contracts, and agreements as part of the Pre-Audit Certification for the disbursement of funds, as well as signing Town of Black Mountain cash disbursements, as authorized by NC General Statute 159-28. The town council previously approved a Town Procurement and Utility Billing Policy that will be used in conjunction with this policy.

Statutory Requirements

The following controls are state statutory requirements and are town-wide across all departments.

- All minutes of the governing body should be maintained in final form in the permanent records of the unit.
- All funds remaining unclaimed after one year should be escheated to the State as required by G.S. Chapter 116B.
- The unit should develop, adopt and approve its budget according to G.S. 159-13.
- All employees who handle public monies or have access to inventories must be bonded either individually or under a blanket bond (G.S. 159-29).

- The Finance Director must be individually bonded for at least $50,000 (G.S. 159-29). The tax collector (if applicable) must be individually bonded at an amount set by the governing board.

- A complete schedule of insurance coverage and limits should be maintained, showing expiration dates, premiums, and other essential information.

ACCOUNTS PAYABLE

The Town procures goods and services through a decentralized purchasing process and maintains the ability to process payments of all invoices by manual check, electronic funds transfer, and purchasing cards. Invoices for goods and services are addressed to, and received by, the various Town departments. Town departments are responsible for establishing controls to ensure items invoiced have been received in accordance with Town policies and procedures.

INVOICE PROCESSING

All Town departments are responsible for ensuring that purchases that require payment by manual check or electronic funds transfer, are with an established vendor within the town finance software. This ensures that all mandatory documentation has been processed and payment can be processed promptly. Departments need to ensure that all vendors are remitting invoices to the Accounts Payable Department and new vendors have completed and remitted a vendor packet.All Town departments are responsible for ensuring all items invoiced have been received. The invoice entry and approval process are completed within the Town's Financial Software.

All goods and services over $1,000 must be purchased via Purchase Order. All purchases, by any method, made by the Town must be pre-audited by the Town Finance Director, or Deputy Finance Director (s), in accordance with NCGS 159-28, except for those specific items listed within the purchasing policy that are exempt from pre-auditing and purchase order requirements.

To ensure the Town compliance of G.S. 159-28 (d), the Finance Directormust provide sufficient internal controls to ensure the guidelines below are followed:

- All expenditures must be authorized by the annual budget ordinance or an adopted capital budget. Items not budgeted originally will require a budget amendment approved by the Town Council.
- Sufficient remaining budget amounts must be available before a purchase is made.
- Adequate cash balances must be available to fund the purchase.
- All purchases must follow the Town of Black Mountain Purchasing Policy.
- All purchases must be transacted exclusively for the operations and capitalized spending of the Town. Purchases cannot be transacted for personal benefit.

PURCHASING CARDS

All Town employees in possession of a purchasing card "PCard" must adhere to the expectations set forth inthis Financial Policy and the Town Purchasing Policy. Cardholders must also sign a purchase card employee agreement before issuance of a Town PCard. Any violation of these policies and procedures requires immediate action. Repeated violations result in cancellation of the purchasing card and can resultin disciplinary action up to and including termination, in accordance with the Town's Personnel Policies. Each Department Head is required to approve all of the department's monthly transactions.

NEW VENDOR SET-UP/MODIFICATION

The Town requires all businesses and contractors to be an active vendor in the Town's financial system to disperse payment. In order to become an active vendor, all businesses must register with the Town through the approved registration methods found on the Town website. Vendors with incomplete registration information will not be accepted.

The Finance Department shall be responsible for all administration of new vendor set-up and shall maintain access to monitor vendor additions and updates in the financial system for completeness.

SYSTEM ACCESS CONTROLS

The Finance Department establishes the system access framework for the financial system. All financialsystem access is restricted with password protection, with functionality restricted through user roles. All requests for access must be approved by a Department Head and the Finance Director. All access control is granted and removed by the Finance Director. To ensureadequately segregated functions, the following system securities exist within the financial management software:

- At the department level, the Department Head has the ability to see budgets and input purchase orders. Department Heads may request access for other users (roles) that may need to see or process purchase orders within that department.
- The Finance Department staff that approves purchase orders does not process invoices for payment unless under extreme conditions and lack of staff.
- Invoice Disbursements must be approved by the Finance Director prior to the check writing process.
- The Finance Department staff is responsible for ensuring that all of the necessary documents havebeen properly matched prior to issuing payment(s) to the vendor.

INTERNAL CONTROLS

Within any accounting system, an organization is always exposed to a certain level of risks. The Town of Black Mountain has implemented certain controls in efforts to prevent and reduce risk exposure.While these controls are set in place, they are only able to provide reasonable assurance of effectiveness because it is impossible to completely eradicate the occurrence or the possible occurrence of fraudulent activity. The controls have been listed below:

- Payments are only issued with an accompanying invoice and other supporting documentation.
- All invoices entered in the system are approved by the proper workflow and by the Finance Director or designee.
- Purchase requisitions are prepared by Town Department Heads or designee
- Purchase orders are generated by the Finance Department and approved by Finance Director or designee.
- Upon receiving merchandise, the departments perform the necessary receiving procedures.to ensure all merchandise is received.
- All Invoices are approved and allocated to expense lines by the Department Head.
- Maintenance to the master vendor file is restricted to the appropriate personnel.
- Check numbers are automatically generated by the financial system.
- Positive pay services are used so that any check not previously registered by number and amount with the bank and uploaded by the check writing software will automatically be rejected unless manually approved by the proper authority.
- Vendor Statements are reconciled monthly to Accounts Payable records.
- A budget ordinance with appropriate budget is adopted annually to ensure funds are available for spending.
- Encumbrances are utilized within the Financial System to ensure that sufficient monies remain available in an appropriation to cover the amount that is expected to be paid out during the current fiscal year.

FINANCIAL RESERVES

Unassigned Fund Balance, as defined by GASB Statement 54, will be the portion of fund balance remaining after all other categories have been determined. These other categories are non-spendable amounts, commitments, and restrictions for future expenditures, and required reserves as defined by State statutes. The Town will maintain a minimum of 30% of the previous fiscal year's actual expenditures and outgoing transfers.

DEBT MANAGEMENT

The Town will confine long-term borrowing to capital improvement or projects that cannot be paid for from current revenues or fund balance except where approved justification is provided. The Town will utilize a balanced approach to capital funding utilizing debt financing, draws on capital reserves and/or fund balances in excess of policy targets, and current-year (pay-as-you-go) appropriations.

When the Town finances capital improvements or other projects by issuing bonds or entering into capital leases, it will repay the debt within a period not to exceed the expected useful life of the project.

Where feasible, the Town will explore the usage of special assessment, revenue, or other self-supporting bonds instead of general obligation bonds.

Prior to the issuance of new General Obligation (GO) debt, consideration shall be given to forecasted tax rate requirements, ratio of net GO debt to assessed taxable value, net GO debt per capita, and debt service payments to General Fund operating budget.

The Town recognizes the importance of underlying and overlapping debt in analyzing financial condition. The Town will regularly analyze total indebtedness including underlying and overlapping debt.

The Town may employ municipal finance professionals to assist in developing a bond issuance strategy, preparing bond documents, and marketing bonds to investors.

The Town shall use the Annual Comprehensive Financial Report (the "ACFR") as the disclosure document for meeting its obligation under SEC Rule 15c2-12 to provide certain annual financial information to the secondary debt market via various information repositories. Continuing Disclosure is required by January 31 of each year.

The Town will select a method of sale that is the most appropriate in light of the financial market, transaction-specific conditions, Town-related conditions, and in accordance with State law.

The Town will use fixed-rate debt in most cases to finance its capital needs; however, the Town may use variable-rate debt up to 15 % of its total debt portfolio, when necessary.

The Town may undertake refinancing of outstanding debt:

- When such refinancing allows the Town to realize significant debt service savings (net present value savings equal to at least 2.0 percent of the refunded par amount) without lengthening the term of refinanced debt and without increasing debt service in any subsequent year; or
- When the public policy benefits outweigh the costs associated with the issuance of new debt and any increase in annual debt service; or
- When a restrictive covenant is removed to benefit of the Town.

The Finance Director shall maintain a system of record keeping and reporting to meet the arbitrage rebate compliance requirements for the federal tax code.

BUDGET DEVELOPMENT

The Town will develop the budget in conjunction with a stated program of performance objectives and measures in which to gauge progress toward meeting those objectives.

The Finance Department will maintain a system for monitoring the Town's budget duringthe fiscal year. This system will provide opportunity for departments and management to monitorand evaluate monthly financial information on expenditures and performance at both the department and fund level. Included will be provisions for amending the budget during the year to address unanticipated needs, emergencies, or compliance with State of North Carolinabudgetary statutes.

For services that benefit specific users, the Town shall establish and collect fees to recover the costs of those services. The Town Council shall determine the appropriate cost recovery level when establishing user fees. Where feasible and desirable, the Town shall seek to recover full direct and indirect costs. User fees shall be reviewed on a regular basis to calculate their full cost recovery attainment levels, to compare them to the current fee structure, and to recommend adjustments where necessary.

The Town shall take immediate corrective actions if at any time during the fiscal year expenditure and revenue updates are such that an operating deficit (i.e., projected expenditures in excess of projected revenues) is projected at year-end. Corrective actions can include a hiring freeze, expenditure reductions, fee increases, and/or use of fund balance.

The tax rate will be set each year based on the cost of providing general governmental services and paying debt service. Consideration will be given to future net revenue requirements for capital improvement project operational expenditure impacts and programmed debt service.

Expenditure budgets are reviewed by staff, the Finance Director, the Town Manager, and Town Council prior to adoption and are continually monitored throughout the budget year. Budgeted funds will be spent for the categorical purposes for which they were intended. The annual operating budget ordinance definesstaff authorization for operating budget adjustments. No appropriations of the proceeds of a debtinstrument will be made except for the purpose for which such debt instrument was issued. Donations will be spent only toward the intent for which they were given.

PAYROLL DISBURSEMENTS-INTERNAL CONTROLS

Each employee should have a secure personnel file that includes, at a minimum, the following:

- hiring authorization,
- salary history,
- hours authorized to work,
- federal and state withholding forms,
- health insurance and retirement deduction information, and
- authorization for all other payroll deductions.
- Payroll checks should be handled like other cash disbursements except that a time record will be the supporting documentation (either electronic or hard copy).
- Personnel policies prohibiting employment practices resulting in nepotism, conflicts of interest or discrimination.

Human Resources is responsible for entering employee information. The payroll process is completed by the finance department. The finance department does not update employee's personnel information.

CASH MANAGEMENT AND INVESTMENTS

The Town's cash management approach consolidates cash balances from all funds to maximize investment earnings (pooling of funds). The accounting for the individual fund cash balances will continue to be maintained separately. Investment income will be allocated to the individual funds based on their respective participation and in accordance with generally accepted accounting principles. Where applicable, this policy also incorporates the following Government Accounting Standards Board Statements:

- GASB Statement No. 31 - *Accounting and Financial Reporting for Certain Investments and External Investment Pools*, implemented July 1, 1997. It should be noted that GASB Statement No. 32 amends No. 31, but only as it applies to Section 457 plans.

- GASB Statement No. 40 – *Deposit and Investment Risk Disclosure, effective July 1, 2004.*

- All investments should be in compliance with G.S. 159-30.

- Per G.S. 159-30(a), the Finance Director is responsible for managing investments subject to the law and to whatever additional restrictions and directions the governing board may impose.

The Town will abide by the following to provide safe and responsible guidelines for the investment of idle funds in the best interest of the public while fully maximizing the rate of return.

- Safety of principal is the highest objective of the Investment Policy. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to minimize credit risk and interest rate risk.

- The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the maturity of investments to meet the anticipated cash needs. Since all possible cash demands cannot be anticipated, the portfolio will consist largely of securities with active resale markets.

- The portfolio shall be designed with the objective of attaining a market rate of return. Return on investment is of secondary importance compared to the above-described safety and liquidity objectives. The investments prescribed in this policy are limited to relatively low-risk securities; therefore, management anticipates the investment portfolio will earn a fair return relative to the risk being assumed.

- Electronic access to securities and brokerage accounts is limited to Finance personnel authorized by the Finance Director. Any securities physically held by the unit will be maintained under strict dual control.

- All interest is credited as due for the proper amount and to the proper funds.

- When using on-line banking, proper controls will be maintained in the banking application.

Wires and Automated Clearing House (ACH) transactions will require dual authorizations.

- Banking Positive Pay system is to be used. This allows the bank to compare checks presented against a unit's account to a list of checks authorized and issued by the unit. It will uncover instances where the amount has been altered, a counterfeit has been created using a different check number, or the payee name does not match. These differences will only be allowed if approved by authorized Town employee.

- Each Employee requiring banking access is assigned an individual login to the banking system restricting banking features to only items needed by that position. Employees are prohibited from sharing logon and password information with other employees.

- Employee access to the electronic banking system will be revoked or modified based on personnel changes. Employees that terminate employment for whatever reason will have passwords deactivated immediately upon termination

The Finance Director will prepare an investment report quarterly for management to ensure consistency with aforementioned policy requirements.

INTERNAL CONTROLS OVER DEPOSITS IN FINANCIAL INSTITUTIONS

In addition to providing a deterrent to misuse, a good internal control system over a unit's deposits held in financial institutions should detect quickly any errors made by those institutions. Units rely on their institutions to provide accurate records, yet as a part of the stewardship responsibilities over public funds, the Finance Director must be prepared to ensure the accuracy of such records.
Critical internal control procedures for deposits in financial institutions include the following:

a) All deposits should only be in institutions authorized by the governing body of the unit.
b) All funds held by financial institutions must either be insured by the FDIC or fully collateralized in accordance with G.S. 159-31(b). Units should insure that their accounts are classified as public depositories with the bank.
c) The financial institutions that hold the unit's funds should be instructed to notify the governing body, or their delegate, of any unusual items or transactions occurring on the account, such as insufficient funds notices or checks made payable to cash.
d) Current signature cards and other documents required by the institution(s) should be maintained on file with the unit's financial institution(s) at all times, indicating which staff members can sign checks on which accounts. These documents should be in strict accordance with the authorizations to sign checks as approved by the governing body. Terminated employees should be removed from signature cards and other bank documents immediately.
e) All bank statements should be reconciled promptly to help identify any errors or discrepancies. Reconciliation will be done upon receipt by a staff member independent of the cash receipts and disbursements functions.
f) All discrepancies should be reported to the finance director immediately. All reconciling items should be investigated and approved by the finance director. Upon completion, all reconciliations should be reviewed by the finance director.

CASH HANDLING

This policy governs the handling of Town Cash in accordance with North Carolina General Statutes (N.C.G.S.) 159-32.

Town Cash is defined as currency, coin, checks, credit, charge and debit card payments, other electronic payment media, and other negotiable instruments payable in money to the Town. Employees of the Town shall conduct their cash transactions in a manner that is consistent with the law and the Town values of Ethics and Professionalism. All Town employees are expected to comply with the cash handling procedures outlined in this policy and any subsequent procedures approved by the Finance Director.
The Finance Director is authorized to issue procedures consistent with this policy. Cash Handling Procedures issued by the Finance Department will be considered an addendum to this policy.

All Departments must follow the Rules and Procedures for handling Town cash.

Responsibility for custodianship of Town Cash

- All employees who handle funds must be bonded either individually or under a blanket bond according to G.S. 159-29. The Finance Director must be individually bonded for at least $50,000. All others may be included in a blanket bond.
- Cash collection should be centralized to the maximum extent possible without hindering operations.
- The department receiving cash has primary responsibility for care of Town Cash in its custody until deposited or entrusted to the centralized collection location authorized by the Finance Director.
- Town employees are responsible for Town Cash in their possession until it is deposited or passed, in a manner consistent with established procedures, to established centralized collections.
- Whenever possible, cash should be tied to goods or services provided, to verify amount of revenue that should have been received.
- Receipts are to be prenumbered form or software, all issued numbers should be accounted for. Voided receipts should be marked and recorded as such and not destroyed. Unissued receipts should be controlled by the staff members authorized to receive cash.
- Bank deposits should be made daily (NCGS 159-32). Deposits should be taken to the bank by someone other than the person who prepared the deposit. All deposits should be made in official depositories.
- Cash maintained on the premises should be kept to a minimum. All cash maintained should be in either a cashier's change fund or a petty cash fund. In either case, the staff member directly responsible for it should maintain the cash under strict sole control; no one else should have access to the cash. In other words, cashiers should never work out of each other's cash drawers.
- Cashiers should reconcile their change funds at the end of each day and maintain written

reconciliations bearing their signatures as evidence that the reconciliations were performed. If possible, reconciliations should be conducted in the presence of another person for verification purposes. Periodic surprise cash counts should be conducted for both change funds and petty cash funds by finance staff members other than those responsible for the cash. These counts should be documented and should include the reconciler's signature. Any discrepancies in a cash reconciliation should be reported immediately to the finance director and supervisor.

- Funds not deposited should be in a safe location, such as a safe on the premises. Access to the safe should be controlled.
- Prohibit transactions that are not directly related to the business of the Town. This includes cashing checks for Town employees and accepting checks for more than the transaction amount and providing cash back to a customer.
- Departments must:
    - Collaborate with the Finance Director or his/her designee to establish and maintain a system of procedures, documentation and reporting on receipts handling and deposit of Town cash and assigning the responsibilities for safeguarding the cash drawer keys.
    - Notify the Finance Director of any loss or theft of Town Cash immediately upon discovery. Written notice shall be given no later than twenty-four (24) hours after discovery.
    - Allow the Finance Director or his/her designee to make on-site inspections and observe the processing of Town Cash, and to make inspections of departmental collection records.

Employees may be subject to disciplinary action, up to and including termination for failure to comply with this policy, departmental policies, and/or duties described in this Policy.

PETTY CASH

Petty cash funds shall be approved by the Finance Director and shall be maintained on an impress (reimbursement) basis. All Petty Cash funds shall be governed by this policy, the Purchasing Policy, and the laws of the State of North Carolina. Petty cash is not to be used for cashing checks and borrowing from petty cash is also prohibited. Petty cash funds shall be audited at least annually by the Finance Department or as deemed necessary. Any deviation from this policy shall result in the department petty cash use being terminated.
Petty cash reimbursements are limited to $20 or less. Petty cash is meant for reimbursement of small dollar purchases.

PETTY CASH PROCEDURE

- Petty Cash is to be kept in a secured locked location with access only allowed by authorized employees.
- An original receipt must be presented for reimbursement of petty cash funds.
- Department will complete a check request with all signed receipts attached. The check request lists all expense account codes to be charged and matches the backup receipts total. The check request must be signed by the department head.
- A check will be issued by the Finance Department to replenish the petty cash fund. The check is made payable to PETTY CASH and includes the department it is for.

- All petty cash receipts regardless of the amount must be remitted to the finance department prior to June 30th to ensure allocation in appropriate budget year.

IDENTITY THEFT PREVENTION, FRAUD, WHISTLEBLOWER

The Town will follow Federal Trade Commission (FTC) requirements with respect to protecting consumer identity and customer identity information theft prevention.

The Town of Black Mountain recognizes the importance of protecting the Town, its taxpayers, its employees, and its assets against financial risks, operational breaches, and unethical activities. This policy establishes guidelines to enforce controls to aid in the prevention and detection of fraud and for responding to allegations of embezzlement, theft, misappropriations of public funds or property, and other types of fraud related to the business of the Town of Black Mountain.
It is the intent of the Town Council to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and the conduct of investigations. Our goal is to establish and maintain an environment of fairness, ethics, and honesty for our employees, our citizens, our suppliers, and any other person(s) or organizations(s) engaging in business on behalf of the Town. To maintain such an environment requires the active assistance of every employee every day.

For purposes of this policy, fraud includes any willful or deliberate act committed with the intention of obtaining an unauthorized benefit, such as money or property, by misrepresentation, deception, or other unethical means.
The Town is committed to upholding the public trust. All employees are expected to support this policy by avoiding behaviors and actions that could he perceived as fraud. Further, employees are expected to support efforts meant to prevent and detect such activities. Proper internal controls are designed to prevent fraud and require that transactions are properly authorized, recorded, and reported, and that all assets are safeguarded. Accordingly, internal controls that are appropriate and adequate, given the size and nature of operations at the Town will he maintained. Department heads and supervisors have an even greater responsibility to uphold the Town's policy. They are responsible for initiating preventative measures when appropriate as well as being familiar with the types of improprieties that might occur within their areas of responsibility and being alert for any indication of fraud. Management will assess the vulnerability of the Town to fraudulent activity, including financial statement fraud, misappropriation of assets and corruption. The Town will conduct fraud risk meetings on a regular basis (at least once a year, and more often as conditions warrant) to include management, employees and Council members as deemed necessary.

In observance of this policy, as in other acceptable business conduct, there is no substitute for sound professional judgement. Each employee should apply this policy with common sense and seek full compliance by reporting any irregularity that is detected or suspected that could he perceived as fraud. The policy of the Town is zero tolerance to fraud. All fraud will be investigated and followed up by the application of all remedies available within the full extent of the law.
For purposes of this policy, the following acts will be referred to as "Fraud", but are not limited to:

- Any dishonest or fraudulent act
- Misappropriation of funds, securities, supplies, or other assets
- Claim for reimbursement of expenses that are not job-related or authorized under current policies
- Impropriety in the handling or reporting of money or financial transactions
- Forgery or intentional and inappropriate alteration of a check, bank draft, or any other financial document
- Profiteering because of insider knowledge of Town operations
- Disclosing confidential information to other parties
- Accepting or seeking anything of material value from vendors, contractors, or other parties in exchange for or to induce favorable consideration concerning services, materials, supplies, equipment, or other work provided to the Town
- Destruction, disappearance, or inappropriate use of records, furniture, fixtures, or equipment
- Any act of embezzlement, theft, misappropriation, or fiscal irregularities

An employee or citizen who suspects fraud should immediately follow the procedures referred to in this policy and should not attempt to conduct investigations or interviews/interrogations related to the suspected fraud personally. (Refer to Reporting Procedures section below).
To protect the reputations of innocent parties, to avoid potential civil liability, and to protect the possibility of recovery, activities associated with ongoing investigations will be discussed with parties affiliated with the Town who have a need to know and with representatives of law enforcement and/or regulatory agencies.

Employees must exercise professional and mature judgement in reporting suspected fraud as to avoid wrongful accusations or compromising a potential investigation.

1. Employees shall read and understand this policy. Additionally, suspected or known fraudulent acts by employees shall be immediately reported to the Town Manager directly. If necessary, the Police Department or other law enforcement and/or regulatory agencies will be notified of each reported incident and will keep the Town Manager abreast of the investigation. The Town Manager is responsible for carrying out the full investigation and documentation of suspected fraud for each incident.
2. In certain justified circumstances, an employee may direct suspected or known fraudulent acts to the Town Manager by an anonymous letter to the Town Manager.
3. Supervisors and department heads shall a) communicate the provisions of this policy to all staff: b) take no action without consulting the Town Manager; c) recommend appropriate disciplinary action when there is evidence of wrongdoing; and d) if

suspension or termination is recommended, consult with the Human Resources Department.

4. All participants in the fraud investigation shall keep the details and results of the investigation confidential. The reporting individual should be informed of the following: a) Do not contact the suspected individual in an effort to determine facts or demand restitution and b) Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Police Department or Legal Department.
5. Any employees reporting an act of fraud; or assisting, testifying or participating in a fraud investigation, acting in accordance with the requirement of this policy, shall not be subject to any adverse employment action unless it is determined the employee is culpable for such action and/or made an allegation knowing it was false.

We encourage citizens, suppliers, and any other person(s) or organizations(s) engaging in business on behalf of the Town to also come forward with any suspicion of fraudulent acts. Written notifications can be addressed to the Town Manager and delivered in person or by mail to town hall, please mark notifications as confidential.

Anyone reporting any irregularity that is detected or suspected must be acting in good faith and have reasonable grounds for believing the information provided. Allegations made maliciously or with knowledge of their falsity will not be tolerated. False allegations of suspected fraud with the intent to disrupt or cause harm to another may be subject to disciplinary action up to and including termination of employment.

Whistleblower Protection

The Town of Black Mountain Council, management or employees may not retaliate against a whistleblower for reporting an activity which that person believes to be fraudulent or dishonest with the intent or effect of adversely affecting the terms and conditions of employment (including, but not limited to, threats of physical harm, dismissal, transfer to an undesirable job assignment, demotion, suspension, or impact on salary or wages). A whistleblower is defined as an employee who informs a supervisor, or department head about an activity which that person believes to be fraudulent or dishonest.

Whistleblowers who believe they have been retaliated against may file a written complaint to the Town Attorney. Any complaint of retaliation will be promptly investigated by the Town Attorney and reported to Town Council. Town Council will determine if appropriate remedial measures should be taken if allegations of retaliations are proven. This protection against retaliation is not intended to prohibit management from acting, including disciplinary action, in the usual scope of their duties and on the basis of valid performance-related factors.

If an investigation results in a recommendation to pursue internal discipline, civil and/or criminal fraud proceedings, the recommendation must be reviewed and approved by the Human Resources Director and the Town Attorney. The Town Attorney will determine whether the recommendation and results of the investigation warrant civil and/or criminal actions and will initiate disclosure to the proper law enforcement or other entities

Department heads will be expected to discuss this policy with all current and new Town employees. All permanent, temporary and contract employees, full and or part-time will be

required to read, understand, abide by and follow this policy.
A copy of this signed form will be submitted to Human Resources and placed in each employee's file.

REVENUE COLLECTION

The determination of the need for an allowance for doubtful accounts and write-offs will be based on an established method of calculation and computed and adjusted annually.

For write-offs of delinquent balances, the policy establishes thresholds to permit the timely write-off of all receivable categories. Thresholds vary dependent upon the types and circumstances of the revenue and the related State law.

a) Property Taxes-Collected by Buncombe County. The Town will follow Buncombe County's established write-off policy for property taxes. Taxes will still be due even when written off of the revenue books.
b) Utilities- Past Due Amounts are written off after 6 months of non-payment.
c) Beer and Wine License- Written off at the end of the fiscal year

CAPITAL IMPROVEMENT PLAN

The Town will develop a five-year plan for capital improvement projects, review and update the plan at least biennially, and make all capital improvements in accordance with the adopted plan.

The Town will maintain its physical capital assets at a level adequate to protect the Town's capital investment and to minimize future maintenance and replacement costs. Accurate information on condition, lifespan, and estimated replacement cost of these assets will be maintained wherever possible.

The Town, as part of its capital planning process, will project its capital equipment and maintenance costs out to five years and will update this projection yearly. From this projection, a maintenance and replacement schedule will be developed. The CIP budget will provide for adequate maintenance and orderly replacement of physical capital assets from current revenue where possible.

The Town will coordinate development of the CIP budget with development of the operating budget. Future operating costs associated with new capital improvement projects will be projected and included in operating budget forecasts.

The Town will match the financing of major capital assets to the debt schedules that closely assign payments with the expected major asset life span to insure intergenerational equity.

In general, effective maintenance and operations of capital facilities should be given priority over acquisition of new facilities, unless a cost/benefit analysis indicates to the contrary. In addition, State or Federal mandates or new service demands may require acquisition of new facilities even when maintenance needs are not fully met. The Town shall have an ongoing 10-year Facilities Improvement Plan to respond to maintenance and operational needs timely.

The Town will coordinate development of the capital improvement budget with development of the operating budget. Future operating costs associated with new capital improvements will be projected and included in operating budget forecasts.

The Town will seek intergovernmental assistance to finance those capital improvements that are consistent with the capital improvement plan and Town priorities, and whose operating, and maintenance costs have been included in operating budget forecasts.

The Town will project its equipment replacement and maintenance needs for five years and will update that projection at least every two years. Using this projection, a maintenance and replacement schedule will be developed.

The Town will identify the estimated costs and potential funding sources for each capital project proposed before it is submitted for approval.

The Town will attempt to determine the most cost effective and flexible financing method for all new projects.

The Town will match the financing of major capital assets to the debt schedules that closely assign payments with the expected major asset life span to insure intergenerational equity.

The capitalization for fixed assets resulting from purchases shall be $5,000. Depending on the category, the threshold may apply to individual or groups of fixed assets. Fixed assets will only be capitalized if meet the definition of a fixed asset, as having a life span of over one year and a value of over $5,000 per item. A physical inventory of capitalized fixed assets will be performed,either simultaneously or on a rotating basis, so that all fixed assets are physically accounted for annually.

FIXED ASSETS

The criteria for an item to be capitalized as a fixed asset are:

- **Useful Life**—The benefit provided by the asset is reasonably expected to last beyond one year.

- **Cost Basis**—The cost basis, including purchase price and other costs incurred in acquiring the asset and placing it into service, must meet or exceed the minimum capitalization threshold. The capitalization threshold for the Town of Black Mountain is $5,000 for all assets.

- **Ownership**—The Town of Black Mountain is identified as either the titled owner or legally responsible party for the asset. In cases where the entity which receives the "use and enjoyment" of the asset but is not the titled owner, the asset is considered a capital lease and recorded on the Town's books and records. Jointly funded capital assets paid for by twogovernmental entities should be capitalized by the entity responsible for managing the assetor future maintenance.

An asset's useful life is the estimated number of years that an asset will be able to be used for the purpose for which it was purchased or constructed. The Town of Black Mountain will review asset usefullives table a minimum of every five (5) years to ensure they are reasonable and adjust the useful lives as necessary if it becomes apparent that actual asset useful lives are measurably longer or shorter than the estimated useful lives.

Fixed Asset Cost Basis—The value of fixed assets is recorded at the full acquisition cost. This cost includes any necessary costs to place the asset into service. The book value of assets recorded at historical acquisition costs should never be increased to reflect appraised value, insurance value, replacement cost, etc.

Contributed Capital Assets (Donated or Gifted)—GASB Statement No. 33, *Accounting and Financial Reporting for Non-Exchange Transactions,* defines a donation as a voluntary non-exchange transaction entered into willingly by two or more parties. Both parties may be governments (such as the Federal Government, another state, county or municipality) or one party may be a non-governmental entity (such as an individual). Donated property (land or buildings) must be recorded at the estimated fair market value on the date of acquisition using a reasonable market study. Other donated assets must be recorded at the estimated fair market value for the asset on the date of acquisition using a reasonable source of cost appraisal. Methods of cost appraisal must be fully documented and maintained on file to support the stated acquisition cost. Contributed assets should be depreciated based on asset class and useful life or estimatedremaining useful life based on age of contributed asset.

Fixed Assets Acquired with Federal or State Grants—An asset acquired with Federal or State grants, or other restrictive funding sources, often has limitations or restrictions enforced by the granting agency. Since Federal and State grants can often have very specific guidelines which may not always coincide with this policy, contact the finance department for evaluation of fixed asset purchases involving grant funds.

Capitalized Interest—For business-type activities and enterprise funds, if the asset meets the requirements prescribed under GASB 62, paragraph 5-22, Capitalization of Interest, actual or imputed interest (capitalized interest) costs associated with the asset should be calculated and added to the asset value.

Depreciation is the process of allocating the cost of a fixed asset over the period of time (useful life) during which the owner receives benefit from the use of the asset. Generally, at the end of an asset's useful life, the sum of the amounts charged for depreciation in each accounting period (accumulated depreciation) will equal the original cost basis of the asset. The Town of Black Mountain will use the straight-line depreciation method (acquisition cost divided by useful life) when processing depreciation. Certain fixed assets are considered to be "non-exhaustible assets," wheretheir useful life is unlimited and are therefore not depreciated. Examples of non-exhaustible assetsinclude land, right of way, and easements.

Disposal of a fixed asset occurs when the asset is sold, traded in, scrapped, abandoned, or otherwise removed from service. Disposals must be processed on a timely basis throughout the fiscal year to ensure the accurate calculation of depreciation. Disposal of asset requires the approval of the Town Manager and the Finance Director.

NONDISCRIMINATION

Town of Black Mountain is committed to an environment that fosters, maintains, and promotes equal employment opportunities. The Town provides an inclusive and welcoming environment and works to ensure that employment decisions are based on an individuals' abilities and qualifications.

It is the policy of Town of Black Mountain to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, gender, sexual orientation, age, disability, marital status, national origin or any other characteristic prohibited by law. Town of Black Mountain explicitly prohibits any such discrimination or harassment.

Employees who believe their rights under Town of Black Mountain's Non-Discrimination Policy has been compromised should contact Human Resources at 828-419-9309.

In response to a report or complaint filed with Human Resources pursuant to this policy, Town of Black Mountain will investigate promptly. To the extent possible, Town of Black Mountain will maintain confidentiality throughout the investigatory process. Retaliation against an individual for reporting discrimination, or for participation in an investigation of a claim of discrimination is a serious violation of this policy. Employees violating this policy will be subject to discipline up to and including termination.

CONFLICT OF INTEREST

Employees of Town of Black Mountain are required to comply with the Town of Black Mountain Ethics Code. As such, they are expected to actively avoid the appearance of, or the fact of, conflicting interests. Conflict of Interest guidelines are also established in the Town Purchasing Policy. Employees and Public Officials are expected to discharge their duties without favor and are expected to refrain from engaging in any outside matters of financial or personal interest incompatible with the impartial and objective performance of their duties. They shall not, directly or indirectly, seek or accept personal gain which would influence, or appear to influence, the conduct of their duties. They shall not use public property or resources for personal gain.

The purpose of this section of the policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

Definitions

- Conflict of Interest (also Conflict) means a conflict, or the appearance of a conflict between the private interests and official responsibilities of a person in a position of trust. Persons in a position of trust includes all employees and public officials of Town of Black Mountain.
- Local Public Officials means an individual member of the Town Council.
- Officer(s), employee(s), and agent(s) means a person who receives all or part of his/her income from the payroll of Town of Black Mountain.

This applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any subrecipient of funds.

In the event of Federal Financial Assistance Award, the employee responsible for managing the award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including subrecipients, of the requirements of this policy and any additional prohibitions or requirements.

Conflicts of Interest

In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, and the requirements of the Ethics Code, no officer, employee, or agent of Town of Black Mountain may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

- the employee, officer, or agent involved in the selection, award, or administration of a contract.
- any member of his or her immediate family.
- his or her partner; or
- an organization which employs or is about to employ any of these parties.
- In which the person has an "Interest" as that term is defined in the Ethics Code.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

Gifts
In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, and in the Ethics Code, employees, and public officials of Town of Black Mountain are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value valued at less than $100 which fall into one of the following categories may be accepted:

1. promotional items.
2. honorariums for participation in meetings; or
3. meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.

Memorandum

To: Town of Black Mountain, Mayor and Council Members
From: Jessica Trotman, Planning Director
cc: Josh Harrold, Town Manager
Josh Henderson, Parks and Recreation Director
Date: March 29, 2022
Re: Recommendation from Planning Board

At the March meeting the Planning Board voted 4 to 0 (with one abstention) to make a recommendation to the Town Council to initiate the closure of the open right-of-way between Cragmont Park and the lower parcel also owned by the town. The area is highlight in the image below and is approximately 42 feet wide and 202 feet long. The application process must move through all the usual steps despite having one owner on each side.

Planning Board made this recommendation because if closed, the right-of-way is split in half and added to the abutting parcel This allows for the right-of-way to be included in the development of Cragmont Park. Staff supports the recommendation.

If Town Council would like to consider the recommendation on upcoming meeting, staff will create a complete agenda item with the pertinent details, and Council will need vote to initiate the application process.

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: April 11, 2022

SUBJECT: Policy Prioritizing the purchase of Electric Vehicles

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8C
Department:	Administration
Contact:	Savannah Parrish, Town Clerk
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: This policy establishes the practice of bidding on and prioritizing the purchase of electric vehicles when a comparable electric vehicle exists.

MOTION FOR CONSIDERATION: To approve the policy of purchasing electric vehicles when a comparable EV exists.

FUNDING SOURCE:

ATTACHMENTS: N/A

MANAGER'S COMMENTS AND RECOMMENDATIONS: To accept as presented.

TOWN OF BLACK MOUNTAIN
ELECTRIC VEHICLE POLICY

I. OVERVIEW

Electric vehicles (EV) provide a clean and safe alternative to traditional gasoline powered vehicles. With more auto manufacturers investing in electric vehicle production, the number of electric vehicles on the road is expected to dramatically rise in the coming years.

Electric vehicles offer several benefits that make them a sustainable transportation option. They produce zero tailpipe emissions which reduces greenhouse gas emissions and other harmful air pollutants. This decreases the number of air quality alerts the region experiences each year which provides valuable public health benefits.

This document constitutes a Town-wide policy intended to outline the intent of the Town of Black Mountain, to the greatest extent possible, to prioritize the purchase and leasing of electric vehicles. We acknowledge that seeking bids for electric vehicles may not always be possible, especially for specialty vehicles such as police vehicles, fire and garbage trucks. However, the Town will maintain the practice of seeking bids for electric vehicles when a comparable vehicle exists and is reasonable.

II. EMPLOYEE RESPONSIBILITIES

Employees of the Town of Black Mountain will seek bids for both electric and gasoline powered vehicles, when a comparable EV exists, before purchasing or leasing new vehicles. While many factors will be considered before purchase, including:

- Cost
- Practicality
- Timeliness

The Town of Black Mountain will be committed to increasing the number of EV in the town's fleet whenever possible.

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION

Meeting Date: March 14, 2022

SUBJECT: Acceptance of Park Amenities for Cragmont Park

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8D
Department:	Administration
Contact:	Michael Neder, VFW Post 9157 Commander, 770-289-9326
Presenter:	Josh Henderson, Recreation Director

BRIEF SUMMARY: National VFW is pushing for all local posts to get involved with a community outreach project during the month of May. VFW Post 9157 would like to donate a gift to the Town of Black Mountain - a workout station. With the new track that just went up around Cragmont Park, which also happens to be directly across the street from the VFW, we feel this would be a great compliment to Cragmont Park & the citizens of Black Mountain. Living in a post Covid world, providing folks outdoor access to exercise equipment is a smart & healthy investment.

We believe an ideal location is just north of the tennis courts, inside the track; this would provide very easy access to anyone that is out enjoying the track. The VFW would build and maintain this piece & we anticipate the cost to be $300-$500.

MOTION FOR CONSIDERATION: Approve the acceptance of the project as presented

FUNDING SOURCE: N/A

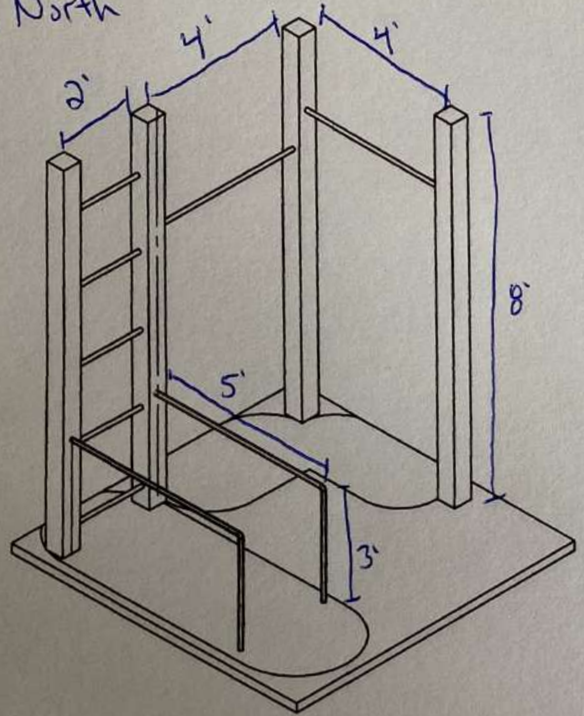
ATTACHMENTS: Project sketch

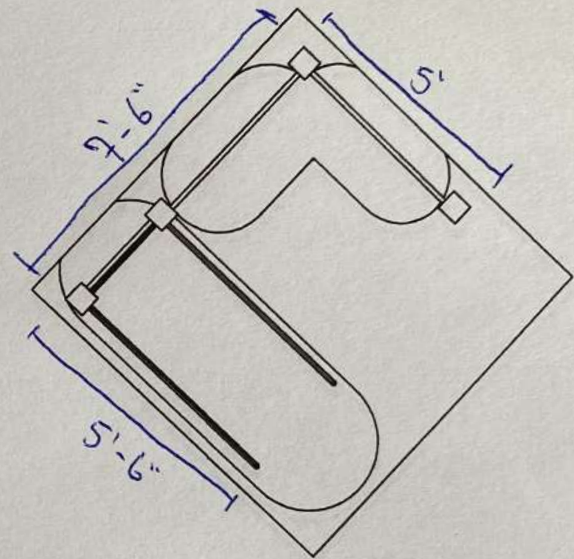
MANAGER'S COMMENTS AND RECOMMENDATIONS:

VFW Post 9157

Cragmont Park

Propose Build on North Side of Tennis Courts, inside the new Track





Note: Post will be 2' underground & secured w/ cement

		UNLESS OTHERWISE SPECIFIED:		NAME	DATE
		DIMENSIONS ARE IN INCHES TOLERANCES: FRACTIONAL ± ANGULAR: MACH ± BEND ± TWO PLACE DECIMAL ± THREE PLACE DECIMAL ±	DRAWN		
			CHECKED		
			ENG APPR.		
			MFG APPR.		
		INTERPRET GEOMETRIC TOLERANCING PER:	Q.A.		
		MATERIAL	COMMENTS:		
NEXT ASSY	USED ON	FINISH			
APPLICATION		DO NOT SCALE DRAWING			

PROPRIETARY AND CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF <INSERT COMPANY NAME HERE>. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF <INSERT COMPANY NAME HERE> IS PROHIBITED.

TITLE:

SIZE	DWG. NO.	REV
A	Workout Station	
SCALE: 1:50	WEIGHT:	SHEET 1 OF 1

B B A A 2 1

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: April 11, 2022

SUBJECT: Public Hearing to Add Text for Mobile Food Vendors and Mobile Food Vendor Courts ***#O-22-02***

AGENDA INFORMATION

Agenda Location:	**PUBLIC HEARING**
Item Number:	9A
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The Town currently does not have any regulations for mobile food vendors or mobile food vendor courts. The proposed text provides a list of requirements to operate as a mobile food vendor or mobile food vendor court and the districts in which they are allowed. The amendments will also align with the requirements of the Buncombe County Health Department. The Planning Board recommended the amendment at their February 28th meeting with a vote of 5-0.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Ordinance #O-22-02*** for amendments to add text for mobile food vendors and mobile food vendor courts.

2. To close the public hearing.

3. To adopt ***Ordinance #O-22-02*** as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance # O-22-02***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Ordinance #O-22-02*** as presented.

ORDINANCE #0-22-02

AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3, DEFINITIONS, AND CHAPTER 5, SECTION 5.24 AND 5.25. OF THE TOWN OF BLACK MOUNTAIN LAND USE CODE TO ADD TEXT FOR MOBILE FOOD VENDORS AND MOBILE FOOD VENDOR COURTS

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 livable environment and a viable economy 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 amendment is consistent with the comprehensive plan and is reasonable and in the public interest because of the following findings:

- Promotes a livable environment and a viable economy and promotes the general safety and welfare of the community.

WHEREAS, after notice duly given, a public hearing was held on April 11, 2022, 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 1, Section 1.2.3 and Chapter 5, Section 5.24 and 5.25, 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 1

Section 1.2.3 – Definitions.

Mobile food court/food vendor court: **a plot of ground upon which two or more** spaces **and associated amenities are regularly provided for use by mobile food vendors** to offer food or beverages for sale to the public.

Chapter 5

Section 5.24 – Mobile food vendors.

A. **Temporary use** permit required.
    1. Any mobile food vendor operating in the Town of Black Mountain must obtain a permit issued by the zoning administrator.
    2. The vendor shall submit an application to Planning Department, which shall include a site plan showing the location or locations where the mobile food vendor will operate and demonstrate that all requirements of this ordinance can be met while operating at each location.
    3. The vendor shall only operate at those locations specified in the permit.
    4. A permit shall be valid for a period of one year from the date of issuance.

B. A valid health department inspection grade card from the Buncombe County Health Department shall be visually displayed on the mobile food truck or cart in clear view of all patrons.

C. Mobile food vendors shall operate only on private property with permission of the owner. No mobile food vendor shall operate on a public street, sidewalk or right-of-way.

D. Mobile food vendors shall comply with the setback requirements for the zoning district in which the truck or cart is operating and, for purposes of setback regulations, shall be treated as a building or structure. No mobile food vendor shall be parked closer than ten feet (10') from a structure or other mobile food vendor.

E. Each mobile food vendor shall have sufficient space to maneuver onto the lot and to allow for safe access by pedestrians and emergency response vehicles.

F. At least one onsite parking space per mobile food vendor is required, except that no onsite parking shall be required for a mobile food vendor operating in the Central Business District. Allocation of parking spaces to the mobile food vendor must not reduce available parking for other uses such that those uses would no longer meet minimum parking requirements.

G. Mobile food vendors shall remove trash and litter from the site each day and as needed. Mobile food vendors must maintain cleanliness of the site.

H. No temporary toilet facilities are allowed.

I. **No seating may be provided.**

J. **No permanent water or sewer connections.**

K. **Propane tanks shall be inspected by the NC Department of Agriculture.**

L. These regulations do not apply to mobile food vendors operating solely as part of a special event for which a permit has been issued by the Town of Black Mountain**, or as part of a non-commercial, private event on private property when that event is non-recurring and of a temporary duration.**

Section 5.25 – Mobile food vendor courts.

A. Site requirements.
   - **a.** Before obtaining a zoning permit, the owner shall submit a site plan showing the location of **spaces to be used by** mobile food vendors, kitchen or restroom facilities, seating for patrons, site maneuvering, and parking.
   - b. There shall be at least one trash can per vendor or one dumpster for the entire court (see screening requirements).
   - c. Outdoor seating is allowed.
   - d. Permanent restroom facilities are allowed.
   - e. A permanent, on-site commissary kitchen is allowed.
   - f. Permanent power is recommended.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 11th day of April 2022.

____

Larry B. Harris, Mayor

ATTEST:

____

Savannah Parrish, Town Clerk