TOWN OF BLACK MOUNTAIN
TOWN COUNCIL

October 12, 2026 | **REGULAR SESSION AGENDA** | **Time: 6:00 PM**

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

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1. CALL TO ORDER

1.A. Welcome

1.B. Pledge of Allegiance

1.C. Moment of Silence

1.D. Announcements

1.E. Ethics Statement

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

Members have a duty and obligation to vote.

2. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

2.A. Proclamation Recognizing October as Domestic Violence Awareness Month

2.B. Special Resolution Honoring Former Council Member William "Bill" Christy

3. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

3.A. Presentation on the Hilltop Rd. Repair Project - Matt Begley, Recovery & Capital Programs Director

Motion: N/A - Presentation only

4. CITIZEN COMMENTS

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

5. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

6. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER

7. CONSENT AGENDA

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

7.A. Adoption of Meeting Minutes- September 10 & 14, 2026 - Wesley Barker, Town Clerk

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

7.B. Monthly Tax Collector Report - Laurel Mabery, Accountant

Motion: Approve the monthly tax collector report as presented.

7.C. Call for Public Hearing for Text Amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7.11 TND Traditional Neighborhood District (master planned), Section 4.7.11.5 Design Standards to clarify public and private streets to be held on Monday, November 9, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, N.C. or as soon thereafter as possible. - Michelle Kennedy, Planning Director

Motion: I move to call for a public hearing for text amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7.11 TND Traditional Neighborhood District (master planned) to clarify public and private streets to be held on Monday, November 9, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

7.D. Authorization of Master Service Agreement with Anchor QEA, PLLC - Matt Begley, Recovery & Capital Programs Director

Motion: Motion to approve the following resolution as presented.

7.E. Resolution to Approve Force Account Labor Exemption - Town Roads Group 1 - Matt Begley, Recovery & Capital Programs Director

Motion: Motion to approve the resolution as presented.

7.F. Land of Sky Regional Council Management Contract - Matt Begley, Recovery & Capital Programs Director

Motion: Motion to approve the resolution as presented and authorize the Interim Town Manager to execute the attached contracts.

7.G. Resolution to Authorize the Task Order for Downtown Stormwater Design & Engineering Services - Matt Begley, Recovery & Capital Programs Director

Motion: Motion to approve the resolution as presented.

7.H. Consideration of FY26-27 Budget Ordinance Amendment to Appropriate Remaining Community Foundation of Western North Carolina Emergency Disaster Relief Fund Grant Funds - Jacob Guiot, Recreation & Parks Director

Motion: Motion to adopt the budget ordinance amendment as presented.

7.I. Consideration of FY26-27 Budget Ordinance Amendment to Appropriate the Remaining Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund Grants - Jacob Guiot, Recreation & Parks Director

Motion: Motion to adopt the budget ordinance amendment as presented.

8. PUBLIC HEARING

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

8.A. Public Hearing for Text Amendments to Chapter 6 Animals, Section 6-6 Public Nuisance, and Section 6-19 Civil Penalty to add language regarding bears - Michelle Kennedy, Planning Director

Motion: I move to approve the proposed amendments to Chapter 6 Animals, Section 6-6 Public Nusiance and Section 6-19 Civil Penalty as presented.

9. CITIZEN COMMENTS

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

10. UNFINISHED BUSINESS

10.A. Continued Public Hearing to Amend Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge - Anne Phillip, Stormwater Technician & Floodplain Administrator

Motion: I move that we approve the proposed amendments to Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge as presented and the proposed amendments are consistent with the comprehensive plan and are reasonable and in the public interest because they promote environmentally-sensitive and sustainable practices, promote natural approaches to address stormwater, and promote the public health, safety and welfare of the town.

10.B. Resolution Supporting Efforts to Pursue Funding for Town of Black Mountain Public Safety Facilities - Larry Harris, Council Member

Motion: Motion to approve the resolution as presented.

11. NEW BUSINESS

11.A. Resolution Authorizing the Temporary Closure and Use of Honeycutt Street for Temporary Fire and Police Facilities - Richard Hicks, Interim Town Manager

Motion: Motion to approve the resolution as presented temporarily closing Honeycutt Street.

12. CLOSED SESSION - NCGS 143-318.11(A)(6) TO DISCUSS PERSONNEL-RELATED ITEMS.

13. ADJOURNMENT

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Wesley Barker, Town Clerk	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Proclamations, Awards, Recognitions, Special Resolutions	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Proclamation Recognizing October as Domestic Violence Awareness Month		

SUGGESTED MOTION(S):
n/a- proclamation

SUMMARY:

Helpmate, located in Asheville, whose mission is to work with the community to eliminate abuse and fear by providing safety, shelter, and support for victims/survivors of intimate partner domestic violence, has requested a proclamation recognizing October as Domestic Violence Awareness and Prevention Month. https://helpmateonline.org/

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. Proclamation of Domestic Violence Prevention and Awareness Month- October 2026

Proclamation

DOMESTIC VIOLENCE PREVENTION & AWARENESS MONTH
OCTOBER 2026

WHEREAS, domestic violence is a serious crime that violates an individual's safety and dignity affecting people of all backgrounds regardless of race, gender identity, sexual orientation, or socioeconomic status; and

WHEREAS, intimate partner violence affects millions of Americans, often beginning before adulthood, highlighting the need for prevention and early intervention; and

WHEREAS, Domestic Violence Awareness Month honors survivors, remembers lives lost, and promotes prevention and healing; and

WHEREAS, On Thursday, October 15, North Carolina will observe "Wear Purple Day" to raise awareness about domestic violence, symbolizing courage, peace, and solidarity with survivors; and

WHEREAS, Helpmate, located at 35 Woodfin St., in Asheville, works with the community to eliminate abuse and fear by providing safety, shelter, and support for victims/survivors of intimate partner domestic violence.

NOW, THEREFORE, BE IT PROCLAIMED that October 2026 is Domestic Violence Prevention & Awareness Month and encourages all residents to support survivors, raise awareness, and learn about local resources available, including Helpmate's free and confidential services and 24-hour hotline at 828-254-0516.

Proclaimed this the 12th day of October 2026.

_____

C. Michael Sobol, Mayor

Resolution

A RESOLUTION HONORING AND REMEMBERING WILLIAM "BILL" CHRISTY

RESOLUTION NO. R-26-86

WHEREAS, William Henry "Bill" Christy, a beloved husband, father, grandfather, attorney, community leader, and friend, passed away on September 30, 2026, at the age of 70; and

WHEREAS, Bill served with distinction as a member of the Black Mountain Town Council from July 2021 through September 2023, bringing his knowledge, thoughtful perspective, and commitment to public service to the governance of the Town he proudly called home; and

WHEREAS, Bill and his wife, Deirdre, made Black Mountain their home in 1995, where he became a respected attorney and partner in Stone & Christy, serving the people of Western North Carolina for 26 years with a practice focused on real estate, probate, and general business matters; and

WHEREAS, Bill was deeply committed to serving others through his profession, devoting countless hours to Pisgah Legal Services and receiving the North Carolina Bar Association's Small Firm Pro Bono Award in 2006 and Pisgah Legal Services' Lifetime Pro Bono Achievement Award in 2021; and

WHEREAS, Bill's dedication to community extended beyond his legal career and Town Council service, including significant leadership with Warren Wilson College, where his involvement spanned more than five decades and included service as Board of Trustees Chair and Interim President, as well as service with numerous civic and community organizations throughout the region; and

WHEREAS, Bill was known for his integrity, intellect, kindness, civic spirit, and deep devotion to family, friends, and the mountains of Western North Carolina, leaving a lasting impact on the community he served;

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Black Mountain hereby honor and remember **William "Bill" Christy** for his dedicated service to the Town, his commitment to justice and community, and his many contributions to Black Mountain; and extends its deepest condolences and heartfelt appreciation to Bill's wife, Deirdre, his children, grandchildren, extended family, and many friends, and recognizes with gratitude the lasting legacy of his life and service.

ADOPTED, this 12th day of October, 2026.

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Matt Begley, Recovery & Capital Programs Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Communications from Staff, Councils, Commissions & Agencies	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Presentation on the Hilltop Rd. Repair Project		

SUGGESTED MOTION(S):
N/A - Presentation only

SUMMARY:

Matt Begley (Recovery & Capital Programs Director) and Chad Goins (Interim Project Manager) will present an update on the Hilltop Rd. repair project, which recently began construction.

BUDGET IMPACT:

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

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

ATTACHMENTS:

None

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER: Wesley Barker, Town Clerk **MEETING DATE:** October 12, 2026

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration

TITLE OF ITEM: Adoption of Meeting Minutes- September 10 & 14, 2026

SUGGESTED MOTION(S):
Motion to approve the meeting minutes as presented (or amended).

SUMMARY:

Council will consider adoption of meeting minutes from the September 10, 2026 Agenda Work Session/Special Meeting, and the September 14, 2026 Regular Monthly Meeting.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. September 10, 2026 Special Called Meeting Minutes - Draft
2. September 14, 2026 Council Meeting Minutes - DRAFT

BLACK MOUNTAIN TOWN COUNCIL MINUTES

September 10, 2026 | Special Meeting & Agenda Review | Time: 5:00 PM

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

Black Mountain Town Council held their special meeting & agenda review on Thursday, September 10, 2026, at 5:00 PM in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

1. CALL TO ORDER

Vice Mayor Archie Pertiller called the meeting to order at 5:00 p.m. with the following members in attendance: Vice Mayor Archie Pertiller, Town Council Member Alice Berry, Council Member Larry Harris, Town Council Member Ryan Stone. *Mayor C. Michael Sobol and Council Member Lawrence Lytle were absent.*

The following staff members were present: Interim Town Manager Richard Hicks, Town Clerk Wesley Barker, Recovery & Capital Programs Director Matt Begley, Zoning Administrator Russell Cate, Interim Project Manager Chad Goins.

Council Member Alice Berry asked if the September 14, 2026 regular meeting agenda review item could be moved to the top of the agenda. All Council was in consensus.

2. AGENDA REVIEW AND APPROVAL

2.A. September 14, 2026 Regular Meeting Agenda Draft Review.

Interim Town Manager Richard Hicks reviewed the September 14, 2026 monthly Council meeting agenda. After some discussion on the new business item 11.A. entitled "ERU Rate Presentation," it was recommended that this item be pulled off of this meeting agenda and be a separate Council work session as the proposals will be a significant change for businesses and industry and would need to be discussed in more depth, and when the full Council could be present. Council Member Harris recommended this work session not be held until after the November election. All Council agreed with this proposal.

The next item discussed was item 11.C. under New Business entitled "Discussion of Flock Cameras" as recommended by Mayor Sobol. Interim Manager Hicks stated that the Police Chief would be absent at the September 14th meeting and had planned to provide a presentation at the October Council meeting. Council Member Harris suggested that this item be tabled until the October Council meeting. Council members emphasized that they were interested in having a discussion around flock cameras and wanted to have this discussion when the full Council was present and when the Police Chief could be present to provide more detail.

Council Member Berry brought forward a citizen request to add a proclamation to the

agenda honoring Dolly Parton under item 2: Proclamations, Awards, Recognitions, Special Resolutions. The proclamation would be for September 25th, which has been dubbed "9 to 5" to honor and recognize Dolly Parton for her contributions and impact she made on others. Council agreed to add this proclamation to the agenda, and Council Member Berry would draft language.

Council Member Stone discussed a recent draft ordinance that was shared with Council entitled "Existing Business Stabilization and Comprehensive Review Ordinance" from the Chamber of Commerce, which aims to preserve existing businesses in Black Mountain. The Council was in consensus not to add the ordinance to this agenda until more conversations could take place between Chamber representatives, the Town Manager, and Council Members. Council Member Stone stated he would put the Chamber of Commerce representatives in touch to meet with the Interim Manager, and the conversations could continue from there.

Council Member Larry Harris made a motion to approve the September 14, 2026 meeting agenda as presented with the amendments to table the ERU Rate Presentation for a work session to be held at a later date, table the Flock Camera discussion until the October 12, 2026 meeting, and add the proclamation honoring Dolly Parton. A vote of 4-0 in favor. Council Member Lawrence Lytle was absent.

3. NEW BUSINESS

3.A. Designation of OSBM Grant Accounts as Official Depositories of Public Funds.

Matt Begley, Recovery & Capital Programs Director, presented this item. Mr. Begley stated that the Town Council will consider a resolution designating four bank accounts as official depositories of public funds for the Town of Black Mountain. These accounts will be set up to hold funds received as part of the Office of State Budget and Management (OSBM) Helene Local Government Capital grant program. Due to the requirements of the grant program to completely segregate the funds received from other Town funds, including any interest earned, the funds cannot be held in the Town's main account while grant related expenses are still being incurred. These four accounts will be hosted at NCCMT (NC Capital Management Trust) and will be named as follows:

- "OSBM – Public Safety (12395)"
- "OSBM – Cragmont Rd. (12392)"
- "OSBM – Veteran's Park (12393)"
- "OSBM – Golf Maintenance (12394)"

Council Member Larry Harris made a motion to approve the resolution to designate four bank accounts for the OSBM grant awards as official depositories for public funds as presented and recommended. A vote of 4-0 in favor. Council Member Lawrence Lytle was absent.

A RESOLUTION TO DESIGNATE FOUR BANK ACCOUNTS FOR THE OFFICE OF STATE BUDGET AND MANAGEMENT (OSBM) GRANTS AWARDS AS OFFICIAL DEPOSITORIES FOR PUBLIC FUNDS

RESOLUTION NO. # R-26-68

WHEREAS, the Town of Black Mountain has been awarded four grants from the Office of State Budget and Management (OSBM) North Carolina Helene Local Government Capital grant program; and

WHEREAS, these funds are intended to be used for specific recovery projects which are partially or entirely ineligible for funding through FEMA Public Assistance; and

WHEREAS, this grant program distributes funds prior to expenditures associated with the grant project scope; and

WHEREAS, OSBM requires these funds be held segregated from other Town funds, including interest earned, until eligible expenses are incurred; and

WHEREAS, Town staff have set up separate bank accounts from the Town's main account to hold these funds until expenses are made; and

WHEREAS, for financial reporting, the Town will be require to recognize these accounts as official depositories; and

WHEREAS, these accounts will be set up at NCCMT and be named the following, corresponding with the grant project itself, (1) "OSBM – Public Safety Building (12395)", (2) "OSBM – Cragmont Rd. (12392)", (3) "OSBM – Veteran's Park (12393)", and (4) "OSBM – Golf Maintenance (12394)"; and

WHEREAS, once received, these funds will be distributed to these accounts according to the project for which they are intended; and

WHEREAS, Capital Project Ordinances for these projects will subsequently be created or amended to reflect the procedure for withdrawing these funds to reimburse eligible grant expenses;

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

1. The Interim Town Manager, and/or a designee(s) thereof, is authorized to create these accounts and designate them as official depositories of public funds and execute and file any documents necessary to this end.
2. The Interim Town Manager, and/or a designee(s) thereof, is authorized to deposit funds from OSBM for these grant awards in their corresponding accounts.
3. The Town Council directs Town staff to bring amendments to existing Capital Project Ordinances and new Capital Project Ordinances for these four projects which reflect the procedure for reimbursing grant-related expenses once these accounts are created.

ADOPTED this 10th day of September 2026.

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3.B. Grant Application for Golf Maintenance Building Debris Removal.

Matt Begley, Recovery & Capital Programs Director, presented this item stating that Town Council will consider a resolution to authorize the submission of a grant application to the North Carolina Department of Environmental Quality (NCDEQ) Helene Debris Recovery & Disposal grant program for the golf maintenance building. This funding is available to local governments to remove solid debris from Tropical Storm Helene. The current golf maintenance building cannot be repaired in its current location, and the Town has applied for funding to relocate the facility. The programs for which the Town has previously submitted applications do not cover costs to remove the remnants of the current facility. This funding, if received, would help cover the gap between the funding for which the Town has been awarded or has outstanding applications, and the total project costs to relocate to a new golf maintenance facility.

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

A RESOLUTION AUTHORIZING TOWN STAFF TO SUBMIT AN APPLICATION FOR THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY (NC DEQ) HELENE DEBRIS RECOVERY & DISPOSAL (DRD) GRANT PROGRAM

RESOLUTION NO. # R-26-69

WHEREAS, Tropical Storm Helene caused extensive damage to the Town of Black Mountain Golf Maintenance Building; and

WHEREAS, this building was subsequently deemed unsafe due to the extent of the damage incurred; and

WHEREAS, this building cannot be restored in its current location and comply with modern codes and standards; and

WHEREAS, the Town has applied for funding to relocate a golf maintenance facility to higher ground to comply with NFIP standards; and

WHEREAS, the funding received by the Town does not cover demolition and removal of the remnants of the current structure; and

WHEREAS, the Town is eligible for the NC DEQ Helene Debris Recovery & Disposal grant program; and

WHEREAS, this program covers solid waste disaster debris clean-up and removal projects that are not covered by Federal Emergency Management Agency (FEMA) or other funding sources;

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

1. That the Town of Black Mountain is authorized to submit a formal application to the NC DEQ Helene Debris Recovery & Disposal grant program for removing the remnants of the current golf maintenance building.
2. That the Town Manager (or designee) is authorized to execute and file the application, including all assurances and agreements required, on behalf of the Town of Black Mountain.

This Resolution shall take effect immediately upon its adoption.

APPROVED this the 10th day of September 2026.

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3.C. Grant Contract Agreement with NC Commerce for the Sutton Ave. Stormwater Project.

Town Council will consider a resolution to approve the grant agreement with the North Carolina Department of Commerce for the Sutton Ave. Stormwater Project Phase I. Matt Begley explained that the Town Council considered a resolution authorizing execution of a $1 million NC Department of Commerce SmBIZ grant agreement for Phase I of the Sutton Avenue Stormwater Project. Council had previously approved the grant application on September 8, 2025, through Resolution R-25-53. The Town has been awarded this $1 million, and the project will improve stormwater infrastructure and resiliency in the low-lying downtown area north of the railroad tracks.

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

A RESOLUTION TO AUTHORIZE THE GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF COMMERCE FOR THE SUTTON AVE. STORMWATER PROJECT (PHASE I)

RESOLUTION NO. # R-26-70

WHEREAS, the Town Council authorized Town staff to apply for the NC Department of Commerce Small Business Infrastructure (SmBIZ) grant program for the Sutton Ave. Stormwater project (Phase I) through resolution R-25-53 approved on September 8, 2025; and

WHEREAS, the maximum grant award amount from the program is $1,000,000 per project; and

WHEREAS, the Town was awarded $1,000,000 through the NC Department of Commerce

SmBIZ grant program for the Sutton Ave. Stormwater Project (Phase I); and

WHEREAS, this project will improve stormwater infrastructure along Sutton Ave. and provide for a more resilient stormwater system for the low-lying downtown area on the North side of the railroad tracks; and

WHEREAS, the Town has received the grant contract from the NC Department of Commerce; and

WHEREAS, Town staff have reviewed the grant agreement and have included the agreement as an attachment for Council approval;

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

1. The Town Council of the Town of Black Mountain authorizes the Chief Elected Official of the Town of Black Mountain to execute the attached agreement with the NC Department of Commerce to fund the Sutton Ave. Stormwater Project (Phase I).
2. The Interim Town Manager, and/or a designee(s) thereof, is authorized to execute and file any other documents required to supplement this agreement with the NC Department of Commerce.

This Resolution shall take effect immediately upon its adoption.

ADOPTED this 10th day of September 2026.

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3.D. Resolution to Award the Sutton Ave. Stormwater Project to John R. McAdams Company, Inc. and Approval of a Capital Project Ordinance for the Sutton Ave. Stormwater Project.

Matt Begley, Recovery & Capital Programs Director, stated that the Town Council will consider a resolution to award the design and engineering of the Sutton Ave. Stormwater Project (Phase I) to the John R. McAdams Company, Inc. as they were considered the most qualified firm according to the scoring method used to evaluate the statements of qualifications. Council would consider approval of the Capital Project Ordinance for this stormwater project.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Lawrence Lytle was absent.

A RESOLUTION TO AWARD THE SUTTON AVE. STORMWATER PROJECT (PHASE I) DESIGN AND ENGINEERING TO THE JOHN R. MCADAMS COMPANY, INC.

RESOLUTION NO. # R-26-71

WHEREAS, the Town has been awarded a $1,000,000 grant for the Sutton Ave. Stormwater Project (Phase I) from the North Carolina Department of Commerce Small Business Infrastructure (SmBIZ) grant program; and

WHEREAS, the Town Council of the Town of Black Mountain has authorized the grant agreement to fund the project; and

WHEREAS, the Town requested statements of qualification from firms who wished to be considered for the design and engineering of the project; and

WHEREAS, the John R. McAdams Company (hereinafter referred to as "McAdams") was considered the most qualified firm according to the scoring method used to evaluate the statements of qualification; and

WHEREAS, the Town has previously entered into a Master Services Agreement with McAdams for on-call engineering services and will, if awarded to McAdams, authorize work on this project on a task order basis;

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

1. The Interim Town Manager, and/or a designee(s) thereof, is authorized to enter into negotiations with McAdams for engineering and design services for the Sutton Ave. Stormwater project (Phase I) and the subsequent task order(s) and budget amendment(s) will be presented to Town Council at a later date.

ADOPTED this 10th day of September 2026.

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4. ADJOURNMENT.

With no further business to be discussed, Vice Mayor Pertiller adjourned the meeting at 5:37 pm.

_____
Archie Pertiller, Vice Mayor

Attest: _____
Wesley M. Barker, Town Clerk

DRAFT

BLACK MOUNTAIN TOWN COUNCIL MINUTES

September 14, 2026 | Regular Session Agenda | Time: 6:00 PM

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

Black Mountain Town Council held their regular session agenda on Monday, September 14, 2026, at 6:00 PM in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

1. CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 6:00 p.m. with the following members in attendance: Vice Mayor Archie Pertiller, Town Council Member Alice Berry, Council Member Lawrence Lytle and Town Council Member Ryan Stone. Council Member Larry Harris was absent.

The following staff members were present: Richard Hicks, Interim Town Manager; Wesley Barker, Town Clerk; Matt Begley, Recovery & Capital Programs Director; James Bingham; Deputy Fire Chief; Russell Cate, Zoning Administrator; John Coffey, Fire Chief; Jay Copley, Finance Director; Chad Goins, Interim Project Manager; Jacob Guiot, Recreation and Parks Director; Michelle Kennedy, Planning Director; Joshua Kiser, Patrol Lieutenant; Chris Kuhn, Deputy Police Chief; Jamey Matthews, Public Works Director; Steve Parker, Police Chief; Anne Phillip, Stormwater Technician & Floodplain Administrator; Jennifer Tipton, Planning & Development Senior Admin; Rechelle Vilevac, Sanitation Supervisor. Town Attorney Craig Justus was also present.

Mayor Sobol led those in attendance in the pledge of allegiance and a moment of silence,

PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

1.A. Presentation of Medal of Valor to Four Citizens.

The Black Mountain Police Department presented the Citizen Valor Award, which recognized four individuals: Andrew Koulouris, Christian Maloney, James Thompson and Phillip T. Whiting, for extraordinary courage and selfless actions during a critical public safety incident at the Trailhead Restaurant on July 2, 2026. During the incident, an armed individual was reportedly threatening others inside the restaurant. The four individuals demonstrated courage, composure, and concern for the safety of others, providing critical assistance during the rapidly evolving situation and supporting responding law enforcement officers. The award recognized their civic responsibility, bravery, and dedication to protecting others.

1.B. Proclamation for September 25 to be "Dolly Parton Day" in Black Mountain.

Mayor Sobol read a proclamation honoring Dolly Parton for her significant contributions as a musician, songwriter, actor, entrepreneur, and philanthropist. The proclamation highlighted her Appalachian roots, six-decade career, promotion of literacy through the

Dolly Parton Imagination Library, and her positive impact on children and families in the Black Mountain community. Hundreds of local children in ZIP code 28711 have benefited from receiving free books through the Imagination Library Program. The Mayor recognized her legacy of service, generosity, and humanitarianism and proclaimed September 25th as "Dolly Parton 9-2-25 Recognition Day" in Black Mountain.

2. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

2.A. Presentation from BearWise Advisory Group.

The BearWise Advisory Group provided a brief presentation on the status of the group's work and expressed support for the call for public hearing for the text amendments to Chapter 6 of the Code of Ordinances adding language regarding bears and public nuisances. The following BearWise Advisory Group members were in attendance: Jill Bielawski, Laura Bugyi, Kiersten Hall, Charlotte McRaine, Cheryl Pitt, and Ashley Hobbs, with NC Wildlife. Members of the group reviewed the timeline for the committee stating that Phase I was to work on text amendments that addressed feeding bears with appropriate fines, emphasizing that it does not prohibit bird feeding. Phase II entails exploring options for implementing new bear resistant sanitation guidelines for trash management. BearWise community education efforts would also be ongoing.

2.B. Presentation on Parking from BMPD.

Patrol Lt. Joshua Kiser with the Police Department spoke about recent issues with parking around the Post Office in town, specifically during the Sourwood Festival. Lt. Kiser stated there was only 5 designated spaces for USPS use and the others were on Tyson's private property. Suggestions were for the USPS to install signs about the designated spaces and for the town to install temporary parking signs along Richardson Blvd for 15-30 minutes to help alleviate some parking concerns. Mayor Sobol asked the department to look into angled parking on Richardson Blvd., similar to Broadway St., to possibly add more spaces for parking.

2.C. Presentation on Swannanoa River Floodbench Project.

Town Council then heard an update on the Swannanoa River Floodbenching project which covered the purpose of the project, the steps taken on the project, and construction progress of the project. The presentation was given by Interim Project Manager Chad Goins and Recovery and Capital Programs Director Matt Begley. **A copy of this presentation is included at the end of these minutes as Appendix A.**

3. CITIZEN COMMENTS

- Larry Behunck spoke about the need for speed reduction measures and signs for Rhododendron Ln. to try to lower speeding and make the road safer.
- Cheryl Milton spoke about the Old Toll Rd. water line project, specifically the 6" ductile water line, and also spoke about the financial accountability of the Town and the Council's accountability of these finances.
- Josh Wells spoke about a social media policy need related to the Mayor's comments on social media.
- Cheryl Hyde, Director of the Swannanoa-Black Mountain Chamber spoke about the

upcoming Town Council forum hosted by the Chamber which was scheduled for September 23, 2026 at the Black Mountain Center for the Arts.

- Teresa Watson spoke about EMS and emergency services response times and requested to work to get the Black Mountain Public Safety building up and working as fast as possible as its delay also affects the community outside of Black Mountain that rely on those services.
- John Richardson spoke about the Town's financial status, stating what was paid out to the former Town Manager.
- Anna Stearns spoke on records from the Planning & Zoning Department and documents that are titled "permits," and how documents were identified if it is not a "permit." She also spoke in support of the recent ordinance proposal by the Chamber that was related to Planning & Inspections processes, asking Council to adopt.
- Shane Lunsford spoke on a recent order of abatement that was issued for his property at 19 Timber Park Dr. stating he has working with the Planning Department staff to remedy violations.
- Frank Cappelli spoke about the Building Inspector's recent photos taken of his home, stating written policy is needed when inspectors are approaching homes. He also asked Council to reconsider the internal review of digital records by the Planning Department that he requested but was not approved by Council.

4. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Mayor Sobol spoke about AI and the interest in holding a community meeting soon about Artificial Intelligence (AI)..

5. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER

Interim Town Manager Richard Hicks introduced Jay Copley, who has been hired as the Town's new Finance Director.

6. CONSENT AGENDA

6.A. Adoption of Meeting Minutes- August 6 & 10, 2026.

Town Council Member Ryan Stone made a motion to approve the meeting minutes as presented. A vote of 4-0 in favor. Council Member Larry Harris was absent.

6.B. Resolution to Amend the FY26-27 Budget for BMPD Insurance Recovery Proceeds.

Town Council Member Ryan Stone made a motion to approve the resolution to amend the FY26-27 budget as presented. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION TO AMEND THE FISCAL YEAR 2026-2027 BUDGET FOR BMPD INSURANCE RECOVERY PROCEEDS

RESOLUTION NO. R-26-72

WHEREAS, the Black Mountain Police Department has received recovery proceeds totaling $6844.73 for the following items:

- Ford Edge $6,132.66
- Ford Edge Siren $263.52
- Police Chief Vehicle Windshield Repair $448.65

WHEREAS, the proceeds received are recommended to be moved to the R&M vehicles line item; and

WHEREAS, the Fiscal Year 2026–2027 budget should be amended to recognize and appropriate the funds.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain, North Carolina, that the following amendments be made to the annual budget for the fiscal year ending June 30, 2027:

Section 1. Budget Amendments. The following accounts are hereby amended as follows:

Account Number	Account Description	Increase	Decrease
100-0000-48010	Insurance Recovery Proceeds	-	$6844.73
100-4510-52316	R&M Vehicles	$6844.73	-

Section 2. Effective Date

This resolution shall become effective upon adoption.

Adopted this the 14th day of September 2026.

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6.C. Monthly Tax Collector Report- July 2026

Town Council Member Ryan Stone made a motion to approve the July 2026 tax collector report as presented. A vote of 4-0 in favor. Council Member Larry Harris was absent.

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6.D. Call for a Public Hearing for Text Amendments to Chapter 6, Animals, Section 6-6, Public Nuisance, and Section 6-19, Civil Penalty to add language regarding bears, to be held on Monday, October 12, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, NC, or as soon thereafter as possible.

This public hearing is to hear comments about proposed text amendments to the Town's Code of Ordinances, Chapter 6, Animals, Section 6-6, Public Nuisance and Section 6-19, Civil Penalties to add language about the feeding of bears as a public nuisance, and to add language about feeding birds, which constitutes an attractant, to the civil penalties section. This public hearing will be held on Monday, October 12, 2026 at 6:00 p.m. at Black Mountain Town Hall, 160 Midland Ave., Black Mountain, NC 28711. Attorney Craig Justus stated for the record that a public hearing isn't required with Town police power ordinances, such as this, but this is an extra notice being given. ***Town Council Member Ryan Stone made a motion to call for the public hearing as presented on October 12, 2026. A vote of 4-0 in favor. Council Member Larry Harris was absent.***

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6.E. Authorization of the Purchase of Recycling Vehicles through NC Department of Environmental Quality (DEQ) Recycling Grant Program and Adoption of the Capital Project Ordinance.

Town Council will consider a Resolution and Capital Project Ordinance to approve the purchase of two recycling vehicles with funding provided through the NC DEQ Helene Recovery Recycling Infrastructure (HRRI) grant program.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

TOWN OF BLACK MOUNTAIN
NC DEQ HRRI VEHICLES PROJECT
CAPITAL PROJECT FUND ORDINANCE
ORDINANCE NO: # O-26-19

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

Section 1: Project Defined
The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple fiscal years.

Section 2: Project Authorization
The project authorized is for the purpose of purchasing vehicles and other items encompassed by the scope provided to the North Carolina Department of Environmental Quality (NC DEQ) Helene Recovery Recycling Infrastructure (HRRI) grant program.

Section 3: Funding
The project is funded in whole by the NC DEQ HRRI grant program.

Section 4: Directives
The officers of the Town of Black Mountain are hereby directed to proceed with the capital project within the terms and budget contained herein, as approved by the Governing Board of the Town of Black Mountain. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the appropriate funds.

Section 5. Revenues
The following anticipated Revenues are hereby adopted:

Budgeted Revenues	
Revenue Type	***Anticipated Revenues***
Allocation Project Grant Funding (NC DEQ HRRI)	**$525,000.00**
Total Revenue	**$525,000.00**

Section 6. Expenditures
The following anticipated appropriations are hereby adopted:

Budgeted Expenditures	
Expenditure Type	***Anticipated Expenditures***
Purchase of Vehicles	**$390,993.73**
Other grant funded Items (Fencing & Carts)	**$134,006.27**
Total Expenditure	**$525,000.00**

Section 7. Records and Reporting
The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 8. Authority to Manage Accounts
The Town Manager and/or the Finance Director has the authority to transfer funds; both expenditures and revenues, between the accounts contained within the capital project as may be necessary, provided however that the total expenditures equal the total revenues and that expenditures may not exceed the project total without an amended ordinance from council.

Section 9. Official Copies
Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 10. Budget Inclusion

Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include within the budget information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Section 11. Project Expiration
This project ordinance expires when the project has been completed and all of the Project Funds have been obligated and expended by the Town OR by the date set forth within the grant funding contract, if applicable, whichever comes first.

Duly adopted this 14th day of September 2026.

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Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE PURCHASE OF RECYCLING VEHICLES THROUGH THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY (NC DEQ) HELENE RECOVERY RECYCLING INFRASTRUCTURE (HRRI) GRANT PROGRAM

RESOLUTION NO. # R-26-73

WHEREAS, Tropical Storm Helene caused irreparable damage to the Town of Black Mountain's sanitation vehicle fleet, rendering many units destroyed or inoperable; and

WHEREAS, the insurance settlement for these vehicles was insufficient to cover the full cost of replacement; and

WHEREAS, the Town applied for assistance for this need through the North Carolina Department of Environmental Quality (NC DEQ) Helene Recovery Recycling Infrastructure (HRRI) Grant; and

WHEREAS, the Town was awarded funding in the amount of $525,000.00 to purchase replacement vehicles; and

WHEREAS, the Town has received quotes for these vehicles from multiple vendors and selected the best value option;

WHEREAS, cash flow funds and reimbursements from the NC DEQ HRRI program will be recognized in the capital project ordinance for the project entitled "NC DEQ HRRI Vehicles."

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute purchase contracts for the vehicles shown below:

Recycling Vehicles	
Recycling Rear Loader	$ 247,037.71
Recycling Mini Packer	$ 143,956.02
Total:	$ 390,993.73

2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute any documents and perform any required tasks to implement these changes.

Adopted this 14th day of September, 2026.

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6.F. Consideration of Resolution Authorizing the Purchasing of Replacement Vehicles through the USDA Community Facilities Disaster Assistance Fund Grant and Adoption of Capital Project Ordinance.

Town Council will consider a Resolution and Capital Project Ordinance to approve the purchase of seven (7) vehicles with funding provided through USDA Community Facilities Disaster Assistance grant program.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

USDA CF DAF VEHICLES PROJECT CAPITAL PROJECT FUND ORDINANCE
ORDINANCE NO: O-26-20

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

Section 1: Project Defined
The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple

fiscal years.

Section 2: Project Authorization
The project authorized is for the purpose of purchasing vehicles encompassed by the scope provided to the United States Department of Agriculture (USDA) Community Facilities Disaster Assistance Fund.

Section 3: Funding
The project is funded in whole by the USDA CF DAF grant program.

Section 4: Directives
The officers of the Town of Black Mountain are hereby directed to proceed with the capital project within the terms and budget contained herein, as approved by the Governing Board of the Town of Black Mountain. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the appropriate funds.

Section 5. Revenues
The following anticipated Revenues are hereby adopted:

Budgeted Revenues

Revenue Type	***Anticipated Revenues***
Allocation Project Grant Funding (USDA CF DAF)	$548,400.00
Total Revenue	**$548,400.00**

Section 6. Expenditures
The following anticipated appropriations are hereby adopted:

Budgeted Expenditures

Expenditure Type	***Anticipated Expenditures***
Purchase of Vehicles	$449,267.97
Reimbursement of Accounts for Previously Purchased Vehicles	$ 99,132.03
Total Expenditure	**$548,400.00**

Section 7. Records and Reporting
The Finance Director is hereby directed to maintain within the Capital Project Fund

Section 8. Authority to Manage Accounts
The Town Manager and/or the Finance Director has the authority to transfer funds; both expenditures and revenues, between the accounts contained within the capital project as may be necessary, provided however that the total expenditures equal the total revenues and that expenditures may not exceed the project total without an amended ordinance from council.

Section 9. Official Copies
Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 10. Budget Inclusion
Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year.
However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include within the budget information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Section 11. Project Expiration
This project ordinance expires when the project has been completed and all of the Project Funds have been obligated and expended by the Town OR by the date set forth within the grant funding contract, if applicable, whichever comes first.

Duly adopted this 14th day of September 2026.

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Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE PURCHASE OF REPLACEMENT VEHICLES THROUGH THE USDA COMMUNITY FACILITIES DISASTER ASSISTANCE FUND GRANT

RESOLUTION NO. # R-26-74

WHEREAS, Tropical Storm Helene caused irreparable damage to the Town of Black Mountain's vehicle fleet, rendering many units destroyed or inoperable; and

WHEREAS, the insurance settlement for these vehicles was insufficient to cover the full cost of replacement; and

WHEREAS, the Town, with support from Land of Sky Regional Council, applied for assistance for this need through the USDA Community Facilities Disaster Assistance Fund (CF DAF); and

WHEREAS, the Town was awarded funding in the amount of $548,400 to purchase replacement vehicles; and

WHEREAS, the Town has received quotes for these vehicles from multiple vendors and selected the best value option;

WHEREAS, cash flow funds and reimbursements from the USDA CF DAF program will be recognized in the capital project ordinance for the project entitled "USDA CF DAF Vehicles";

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute purchase contracts for the vehicles shown below:

USDA Vehicles for Purchase	
Vehicle	**Amount**
F-550 Bucket truck	$163,775.60
Ford F-350 4x4 with Dump Trailer	$78,700.98
Ford F-350 4x4 regular cab utility bed	$44,389.66
Ford F-250 4x4 SD Super Cab regular bed	$45,735.20
Ford F-150 4x4 single cab 5.0 engine standard bed	$41,105.91
Ford F-150 4x4 single cab 5.0 engine standard bed	$41,105.91
2026 Ranger 4x4 SuperCrew 5' box 128.7" WB XL	$34,454.71
TOTAL	**$449,267.97**

2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any documents or other items required to implement these changes.

Adopted this 14th day of September, 2026.

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6.G. Consideration of Resolution to Authorize the Agreement with Anchor QEA of NC, PLLC to Provide Design and Engineering Services for the Flat Creek Greenway Restoration Project.

Anchor QEA PLLC was selected to provide design and engineering services for the Flat Creek Greenway Restoration Project following damage sustained during Tropical Storm Helene. FEMA Public Assistance funding of $39,475, along with $35,000 in State cash flow loan funds, has been allocated for architectural and engineering services. The resolution authorizes the Interim Town Manager and/or designee(s) to execute the agreement and related documents for damage assessment and development of repair alternatives.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION TO AUTHORIZE THE AGREEMENT WITH ANCHOR QEA OF NORTH CAROLINA PLLC TO PROVIDE DESIGN AND ENGINEERING SERVICES FOR THE FLAT CREEK GREENWAY RESTORATION PROJECT

RESOLUTION NO. # R-26-75

WHEREAS, the Flat Creek Greenway was substantially damaged during Tropical Storm Helene; and

WHEREAS, the Town has been awarded funding from FEMA Public Assistance (hereinafter referred to as "FEMA PA") for architecture and engineering to repair the greenway; and

WHEREAS, the Town requested statements of qualification from firms who wished to be considered for the design and engineering of disaster recovery projects: and

WHEREAS, the Town Council of the Town of Black Mountain awarded this project to Anchor QEA PLLC (hereinafter referred to as "Anchor") after scoring responses to a request for qualifications for engineering services for the project; and

WHEREAS, the Town has allocated funds from the State cash flow loan in the amount of $35,000 and received $39,475 from FEMA PA for A&E services which have been recognized in the associated capital project ordinance (O-25-27);

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

1. The Interim Town Manager, and/or a designee(s) thereof, is authorized to execute the contract with the Anchor QEA to perform a damage assessment and provide alternatives for repair of the Flat Creek Greenway.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

ADOPTED this 14th day of September 2026.

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6.H. Consideration of Resolution Authorizing the Task Order with Jennings Environmental for Design & Engineering Services for the NC DEQ Blueprint Veterans Park Floodbenching Project and Adoption of a Capital Project Ordinance for this Project.

The Town Council will consider a task order from Jennings Environmental to perform engineering and design tasks for the NC DEQ Blueprint Floodbench Project in Veteran's

Par and adopt a Capital Project Ordinance for the project.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE TASK ORDER WITH JENNINGS ENVIRONMENTAL FOR DESIGN & ENGINEERING SERVICES FOR THE NC DEQ BLUEPRINT VETERAN'S PARK FLOODBENCHING PROJECT

RESOLUTION NO. # R-26-76

WHEREAS, the Town applied to the North Carolina Division of Environmental Quality (NC DEQ) Blueprint grant program for floodbenching improvements in Veteran's Park; and

WHEREAS, the Town was awarded funding from the NC DEQ Blueprint program in the amount of $1,650,000; and

WHEREAS, Jennings Environmental was selected as the most qualified firm based on their response to the Town's request for statements of qualification for the project; and

WHEREAS, Jennings Environmental has submitted to the Town a task order outlining their proposed scope and cost for design and engineering services for the project; and

WHEREAS, cash flow funds and reimbursements from the NC DEQ Blueprint program will be recognized in the capital project ordinance for the project entitled "Veteran's Park Blueprint Floodbenching Project";

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with Jennings Environmental to perform engineering and design tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

Adopted this 14th day of September, 2026.

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Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

TOWN OF BLACK MOUNTAIN
VETERAN'S PARK BLUEPRINT FLOODBENCHING PROJECT
CAPITAL PROJECT FUND ORDINANCE

ORDINANCE NO: # O-26-21

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

Section 1: Project Defined

The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple fiscal years.

Section 2: Project Authorization

The project authorized is for the purpose of completing the Veteran's Park Blueprint floodbenching project as outlined in the scope submitted to the North Carolina Department of Environmental Quality.

Section 3: Funding

The project is funded in whole by the North Carolina Department of Environmental Quality Blueprint grant program.

Section 4: Directives

The officers of the Town of Black Mountain are hereby directed to proceed with the capital project within the terms and budget contained herein, as approved by the Governing Board of the Town of Black Mountain. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the appropriate funds.

Section 5. Revenues

The following anticipated Revenues are hereby adopted:

Budgeted Revenues	
Revenue Type	***Anticipated Revenues***
Allocation Project Grant Funding (NC DEQ Blueprint)	$1,650,000.00
Total Revenue	**$1,650,000.00**

DRAFT

Section 6. Expenditures
The following anticipated appropriations are hereby adopted:

Budgeted Expenditures	
Expenditure Type	***Anticipated Expenditures***
Professional Services – Design and Engineering	$390,000.00
Capital Outlay – Land Improvements	$1,260,000.00
Total Expenditure	**$1,650,000.00**

Section 7. Records and Reporting
The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 8. Authority to Manage Accounts
The Town Manager and/or the Finance Director has the authority to transfer funds; both expenditures and revenues, between the accounts contained within the capital project as may be necessary, provided however that the total expenditures equal the total revenues and that expenditures may not exceed the project total without an amended ordinance from council.

Section 9. Official Copies
Copies of this Capital Project Ordinance shall be furnished to the Town Clerk, the Town Manager and the Finance Director for the direction in carrying out this project.

Section 10. Budget Inclusion
Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include within the budget information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Section 11. Project Expiration
This project ordinance expires when the project has been completed and all of the Project Funds have been obligated and expended by the Town OR by the date set forth within the grant funding contract, if applicable, whichever comes first.

Duly adopted this 14th day of September 2026.

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6.I. Consideration of Resolution Authorizing the Task Order with Jennings Environmental for Design & Engineering Services for the Veterans Park River Restoration Project and Adoption of the Capital Project Ordinance.

The Town Council will consider a resolution authorizing a task order from Jennings Environmental to perform engineering and design tasks for the Veterans Park River Restoration project and to adopt a Capital Project Ordinance for the project.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

TOWN OF BLACK MOUNTAIN
VETERANS PARK RIVER RESTORATION FEMA PROJECT
CAPITAL PROJECT FUND ORDINANCE

ORDINANCE NO: # O-26-22

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

Section 1: Project Defined
The Town of Black Mountain defines a "Capital project" as a project financed in whole or in part by the proceeds of bonds, notes or debt instruments or a project involving the construction or acquisition of a capital asset with expenditures that span across multiple fiscal years.

Section 2: Project Authorization
The project authorized is for the purpose of completing the Veteran's Park River Restoration Project.

Section 3: Funding
The project is funded by Federal Emergency Management and North Carolina Department of Public Safety grants.

Section 4: Directives
The officers of the Town of Black Mountain are hereby directed to proceed with the capital project within the terms and budget contained herein, as approved by the Governing Board of the Town of Black Mountain. The Town Manager is hereby directed to act on behalf of the Town Council in all matters associated with the project within the terms of all contracts, agreements, and legal requirements binding on the project and within limits of the appropriate funds.

Section 5. Revenues

The following anticipated Revenues are hereby adopted:

Budgeted Revenues	
Revenue Type	***Anticipated Revenues***
FEMA PA funding for Veteran's Park River Restoration	$536,450.00
Total Revenue	**$536,450.00**

Section 6. Expenditures

The following anticipated appropriations are hereby adopted:

Budgeted Expenditures	
Expenditure Type	***Anticipated Expenditures***
Professional Services – Design and Engineering	$95,240.00
Capital Outlay – Land Improvements	$441,210.00
Total Expenditure	**$536,450.00**

Section 7. Records and Reporting

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

Section 8. Authority to Manage Accounts

The Town Manager and/or the Finance Director has the authority to transfer funds; both expenditures and revenues, between the accounts contained within the capital project as may be necessary, provided however that the total expenditures equal the total revenues and that expenditures may not exceed the project total without an amended ordinance from council.

Section 9. Official Copies

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

Section 10. Budget Inclusion

Authorized project expenditures represent appropriations necessary for the completion of projects and therefore do not require re-appropriation in any subsequent fiscal year. However, per G.S. 159-13.2 information on project ordinances will be included in the annual budget. Each year the finance officer shall include within the budget information in such detail as he or the governing board may require concerning each grant project or capital project. This information will be detailed for any new project funds expected to be authorized by project ordinance during the budget year and include information on projects authorized by previously adopted project ordinances which have remaining appropriations available for expenditure during the budget year.

Section 11. Project Expiration

This project ordinance expires when the project has been completed and all of the Project Funds have been obligated and expended by the Town OR by the date set forth within the

grant funding contract, if applicable, whichever comes first.

Duly adopted this 14th day of September 2026.

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Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE TASK ORDER WITH JENNINGS ENVIRONMENTAL FOR DESIGN & ENGINEERING SERVICES FOR THE VETERAN'S PARK RIVER RESTORATION PROJECT

RESOLUTION NO. # R-26-77

WHEREAS, the riverbank at Veteran's Park was substantially damaged during Tropical Storm Helene; and

WHEREAS, these damages are included in a FEMA PA project; and

WHEREAS, the Town requested statements of qualification from engineering firms who wished to perform the design and engineering for the project; and

WHEREAS, the Town has selected Jennings Environmental as the most qualified firm based on the qualifications-based selection process; and

WHEREAS, Jennings Environmental has submitted to the Town a task order outlining their proposed scope and cost for design and engineering services for the project; and

WHEREAS, cash flow funds and reimbursements from the NC DEQ Blueprint program will be recognized in the capital project ordinance for the project entitled "Veteran's Park River Restoration Project"; and

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with Jennings Environmental to perform engineering and design tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

Adopted this 14th day of September, 2026.

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6.J. Consideration of Resolution Authorizing the Task Order with Kimley-Horn & Associates to Perform Design & Engineering Services for the Veterans Park Pedestrian Bridge Project.

Town Council will consider a resolution to approve the Task Order from Kimley-Horn to complete full designs and engineering of the Veteran's Park Pedestrian Bridge project.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE TASK ORDER WITH KIMLEY-HORN & ASSOCIATES TO PERFORM DESIGN & ENGINEERING SERVICES FOR THE VETERAN'S PARK PEDESTRIAN BRIDGE PROJECT

RESOLUTION NO. # R-26-78

WHEREAS, the Veteran's Park pedestrian bridge was destroyed during Tropical Storm Helene; and

WHEREAS, the Town has been obligated funding through the FEMA Public Assistance program to build a replacement bridge; and

WHEREAS, Kimley-Horn has given a task order to the Town outlining the scope and cost to complete the design and engineering of the bridge; and

WHEREAS, Town Council has previously passed the Capital Project Ordinance for this project (O-25-29) on November 1, 2025;

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

1. The Town Council hereby authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the attached task order for design and engineering related to the Veteran's Park pedestrian bridge project.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.
3. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to perform budget adjustments required to recognize reimbursements for the project in the Veteran's Park Bridge capital project ordinance (O-25-29) and make payments to Kimley-Horn for their services for the scope of work, as presented.

Adopted this 14th day of September, 2026.

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6.K. Consideration of Resolution Authorizing the Amendment to the Agreement for Professional Engineering & Design Services from the John R. McAdams Company for FEMA Town Roads Group 2 Project.

Town Council will consider a resolution to approve the attached Amendment to the Agreement for Professional Services for the John R. McAdams Company, Inc. to perform Design & Engineering services for five Town roads which are included in the Town Roads Group 2 project. These roads are as follows: (1) Fairway Dr., (2) Valley Vista Dr., (3) South Laurel Circle, (4) Old Lakey Gap Rd., and (5) N Cherokee Ave.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING & DESIGN SERVICES FROM THE JOHN R. MCADAMS COMPANY, INC. ASSOCIATED WITH THE FEMA TOWN ROADS GROUP 2 PROJECT

RESOLUTION NO. # R-26-79

WHEREAS, several Town roads were substantially damaged during Tropical Storm Helene; and

WHEREAS, many of these roads have been incorporated into FEMA Public Assistance projects to repair damages; and

WHEREAS, the Town received an assessment from McAdams detailing methods of repair and thorough documentation of storm-related damages to inform FEMA of which roads repairs required further engineering to restore safe road conditions; and

WHEREAS, five of these roads (Fairway Dr., Valley Vista Dr., South Laurel Cir., Old Lakey Gap Rd., and N Cherokee Ave.) sustained damages requiring engineered design; and

WHEREAS, FEMA has acknowledged the need for engineering on these damages; and

WHEREAS, the Town has received the proposed amendment to professional services to prepare designs and perform engineering tasks for these sites; and

WHEREAS, these costs will ultimately be funded through FEMA Public Assistance funding and will use State Cash Flow Loan funding until FEMA funds are received; and

WHEREAS, Town Council has previously authorized a budget amendment (R-25-93) and capital project ordinance (O-25-33) allocating cash flow loan funds to the project; and

WHEREAS, these costs are fully covered by the amounts currently recognized in the capital project ordinance.

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

1. The Town Council hereby authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the amendment to professional services for engineering related to the Town Roads Group 2 project.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this amendment to this agreement for professional services and proceed with the outlined scope of work, as presented.

Adopted this 14th day of September, 2026.

****

6.L. Consideration of Application to Pursue Grant Funds for Part-Time Assistant Community Garden Manager Position Funding for FY27-28.

The Town of Black Mountain Recreation and Parks Department requests authorization to apply for up to $25,000 through the Community Foundation of Western North Carolina Human Services and Education Fund. The funding would continue the part-time Assistant Garden Manager position for FY2027-2028, with the Town serving as the applicant for this grant cycle. The position is currently funded for FY2026-2027 through a grant received by the Friends of the Community Gardens. During the current grant period, the position has become an important part of maintaining daily operations and meeting the Garden's growing community needs.

Council Member Ryan Stone made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

A RESOLUTION AUTHORIZING THE PURSUIT OF GRANT FUNDING FOR A PART-TIME ASSISTANT GARDEN MANAGER AT THE DR. JOHN WILSON COMMUNITY GARDEN

RESOLUTION NO. # R-26-80

WHEREAS, the Dr. John Wilson Community Garden, operated through the Town of Black Mountain Recreation and Parks Department, provides vital community programming, food donation efforts, educational opportunities, rental plots, and volunteer experiences; and

WHEREAS, the part-time Assistant Garden Manager position is currently funded for FY 2026-2027 through a grant received by the Friends of the Dr. John Wilson Community Garden; and

WHEREAS, the position has proven vital to the Garden by supporting daily operations, the Growing for Donation Program, rental plots, volunteer coordination, educational programming, and infrastructure projects, while allowing the Garden Manager to focus on administration, partnerships, fundraising, and long-term improvements; and

WHEREAS, the Garden continues to face increased demand for donated produce, community plots, volunteer opportunities, and programming, and continued staffing is necessary to maintain these services and protect the progress made through recent grant-funded improvements; and

WHEREAS, the Town of Black Mountain seeks to apply directly for the same grant opportunity through the Community Foundation of Western North Carolina Human Services and Education Fund, in an amount up to $25,000, to continue the part-time Assistant Garden Manager position for FY 2027-2028.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that Town staff are hereby authorized to apply for grant funding through the Community Foundation of Western North Carolina Human Services and Education Fund, in an amount up to $25,000, to support a part-time Assistant Garden Manager position at the Dr. John Wilson Community Garden for FY 2027-2028.

Adopted this 14th day of September, 2026.

****

8. PUBLIC HEARING

8.A. Public Hearing to Amend Chapter 48, Utilities, Article VI, Stormwater Management Enterprise Fund, Division 2, Stormwater Service Charges.

The current Stormwater Management Enterprise Fund Ordinance does not specify that the property owner is the responsible party for paying the utility bill, as is required by law. The proposed amendments will remove any mention of tenants, agents, or anyone that is not the property owner and will move the responsibility of the utility bill to the property owner.

Town Council Member Alice Berry made a motion to open the public hearing. A vote of 4-0 in favor. Council Member Larry Harris was absent. The time was 7:26 p.m. No public comment was provided. Vice Mayor Archie Pertiller then made a motion to close the public hearing. A vote of 4-0 in favor.

Council Member Alice Berry made a motion to approve the following ordinance amendments as presented and to approve the statement of consistency. A vote of 4-0 in favor. Council Member Larry Harris was absent.

AN ORDINANCE TO AMEND CHAPTER 48 UTILITIES, ARTICLE VI, STORMWATER MANAGEMENT ENTERPRISE FUND, DIVISION 2, STORMWATER SERVICE CHARGES

ORDINANCE NO. # O-26-23

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January 2010; and

NOW, THEREFORE, BE IT RESOLVED THAT Chapter 48, Article V, Division 2, Stormwater Service Charges, of the Town of Black Mountain Code of Ordinances, be amended to the following:

ARTICLE VI. – STORMWATER MANAGEMENT ENTERPRISE FUND

DIVISION 2. STORMWATER SERVICE CHARGES

Sec. 48-280. – Stormwater service charges.

(a) Jurisdiction: All developed land in the town, whether public or private, **will** ~~shall~~ be subject to a stormwater service charge set by the town council. Exemptions **will** ~~shall~~ not be allowed based on age, tax exemption, or other status of an individual or organization. Service charges may be subject to a credit system as further provided.

(b) Establishment of stormwater charges and fees: There is hereby established a stormwater utility fee to be imposed on all property within the boundaries and jurisdiction corporate limits of the town, including all areas hereafter annexed thereto, whether public or private, based on the fees, charges, and penalties adopted by the town council. Stormwater service charges on developed land **will** ~~shall~~ be based on a scheduled of rates, charges, tiers, and late fees fixed and established from time to time by the town council, adopted in the annual budget ordinance and maintained on file in the office~~s~~ of the town clerk. Stormwater utility service fees will be determined and modified so that the total revenues generated by said fess will be used to pay such expenses as are reasonably necessary or convenient in the management, administration, planning, regulatory compliance, public education, construction, operation, and maintenance of the stormwater system and to pay principal of and interest on the debt incurred for stormwater purposes.

(c) Fees **will** ~~shall~~ be assessed using a flat tiered system based on the intensity of the principal use of each parcel. Any parcel classified as mixed-use **will** ~~shall~~ be assessed the stormwater utility fee associated with the most intensive use occurring on the property.

(d) The principal use shall be determined by the planning director**, or their designee(s),** who shall base such determination on:

(1) Tier 1 – Minimal impact, residential. Each parcel upon which the principal use is single-family residential dwellings, including duplexes, condominiums, and townhomes, **will** ~~shall~~ be assessed at the Tier 1 rate.

(2) Tier 2 – Moderate impact, commercial and institutional. Each parcel upon which the principal use is neither residential nor industrial, including but not limited by way of limitation, retail establishments; medical offices, restaurants, professional services, automotive services; fitness centers, spas and salons, religious services; apartment complexes; and residential care facilities, **will** ~~shall~~ be assessed at the Tier 2 rate.

(3) Tier 3 – Undeveloped. Each parcel upon which there is no residential, industrial, commercial, institutional, or other non-residential use and which remains in its natural, vegetative state, **will** ~~shall~~ be assessed at the Tier 3 rate.

(4) Tier 4 – Exempt. Each parcel owned by the Town of Black Mountain, Buncombe County, the state of North Carolina, or the United States of America.

(5) Tier 5 – Significant impact, industrial. Each parcel upon which the principal use is light or heavy industrial, including, but not limited by way of limitation, asphalt;

mining; warehousing; and processing facilities, **will** ~~shall~~ be assessed at the Tier 5 rate.

Sec. 48-281. – Exemptions and credits.

Except as provided in this section, no developed property **will** ~~shall~~ be exempt from stormwater utility service fees or receive credit against such fees.

(1) There **will** ~~shall~~ be no exception, credit, offset, or other reduction in stormwater service charges **granted** ~~grated~~ based upon age, race, tax status, economic status, or religion of the customer, or any other condition unrelated to the stormwater utility's cost of providing stormwater management services and facilities.
(2) The **property** owner ~~or current resident~~ of any parcel may be eligible to receive a monthly credit against the assessed stormwater utility fee in recognition of on-site or off-site systems, facilities, measures, and actions taken by customers that exceed minimum requirements for stormwater management, provided that such credit **will** ~~shall~~ be conditioned upon the continuing performance of the systems, facilities, measures, or actions upon which the credits are granted for the remainder of months, and the maximum credit **will** ~~shall~~ not exceed 50 percent of the original assessed fee.
(3) The planning director **will** ~~shall~~ prepare a stormwater credit and incentive manual setting forth the appropriate credit application process, eligibility criteria, and standards upon which such credits are given.
(4) Credits **will** ~~shall~~ be in the amounts set forth in the schedule of rates, fees, charges, and penalties adopted annually by the town council.
(5) This section 48-281 **will** ~~shall~~ be effective by January 1, 2024.

Section 48-282. – ~~[~~Billing and collection of stormwater service fees, rents, rates, charges, and penalties.~~]~~

Billing and collection of stormwater service fees, rents, rates, charges, and penalties **will** ~~shall~~ be administered by the finance director**, or their designee(s),** who is hereby authorized to develop policies and procedures to effectuate the purpose and intent of this section.

(1) Responsible party: As authorized by NCGS Section 160A-314, stormwater utility fees, charges, and penalties will remain the responsibility and obligation of the property owner.
(2) Stormwater service charges may be billed on a combined utility bill that also contains fees and charges for other utility services provided by the town such as, water and/or sewer service. The stormwater utility fee **will** ~~shall~~ be billed monthly upon the normal utility billing and **will** ~~shall~~ be shown as a separate item. ~~(Stormwater service bills for a property that receives other town provided utilities shall be sent to the customer receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the stormwater service bill may be sent to the property owner.~~
(3) A stormwater bill will either be sent through the United States mail or delivered by an alternate method, notifying each **property owner** ~~customer~~ of the amount of the bill, the date the payment is due and the date when past due. Failure to receive a bill is not justification for

nonpayment. ~~The owner of each parcel of developed land shall be ultimately obligated to pay such fee.~~

(4) Stormwater utility service fees **will** ~~shall~~ be due and payable as set forth in the town's adopted utility billing policy and procedures manual and will be subject to rates, fees, and penalties listed within the schedule of utility rates and fees. ~~The property owner is ultimately responsible for payment of the stormwater utility service fee for property for which the party bill has not paid the stormwater fee as authorized by N.C.G.S. § 160A-314.~~

(5) Combined utility billing: Where stormwater service charges appear on a combined utility bill, and a customer does not pay the service charges for all the utilities on the bill, the partial payment will be prorated and applied to the respective utilities in the following order:
   a. Delinquent stormwater utility fees and service charges,
   b. Delinquent combined sewer and water charges,
   c. Current stormwater changes, and
   d. Current combined sewer and water charges.

(6) Where a property receives water and/or sewer service, if stormwater service charges for that property are not paid, water and/or sewer service to that property may be terminated, whether or not the stormwater charges were included on a combined utility bill. Termination will be handled in accordance with the Adopted Utility Billing Policy and Procedures Manual.

(7) No property for which stormwater service charges are outstanding is entitled to receive water and/or sewer service until the outstanding stormwater service charge on that property is paid. No customer with a delinquent stormwater service account is entitled to open a water and/or sewer account at the same or different location until the delinquency has been satisfied.

(8) Non-combined and/or separate stormwater utility billing: For properties not having otherwise active utility accounts, stormwater utility service fee will shall be billed to the **property owner** ~~owners or other persons listed on the real property tax records~~.

(9) No criminal penalty: A violation of this section subjects the offender to a civil penalty pursuant to the authority granted by N.C.G.S. § 160A-175 and does not subject the offender to the criminal penalty provisions of N.C.G.S. § 14-4.

(10) Back billing: If property is incorrectly billed, or not billed, or a bill is sent to the ~~wrong party~~ **property owner**, the **town** ~~city~~ may back bill a property for up to a three-year period.

(11) Collection on unpaid stormwater fees will shall be done in conformance with the Town of Black Mountain Adopted Utility Billing Policy and Procedures Manual.

Sec. 48-283. – Reserved.

Sec. 48-284. – Appeals.

This article **will** ~~shall~~ not be construed as to relieve any person from the payment of any fee or charge which is due and payable under the provisions of any prior ordinance, nor to bar the collection of same by any and all means in said prior ordinance or otherwise provided by law. No adjustment to a customer's bill may be made by the **planning** director or the **town** manager for more than three-year period immediately preceding the date that the customer's appeal is received by the **town** manager. Any customer who believes the provisions of this article have been applied in error may appeal in the following manner:

(1) In the event a ~~current resident or the~~ property owner disputes the stormwater utility charges assessed to that ~~current resident's or~~ property owner's property, including determination of

the applicable tier rate or determination of applicable credits, the ~~current resident or~~ property owner may apply for a redetermination. The planning director **will** ~~shall~~ decide to approve or deny the application within 30 days of receipt of the completed application. The planning director's decision **will** ~~shall~~ be in writing and if a denial, **will** ~~shall~~ state the reasons for the denial.

(2) In the event the application for a redetermination is denied, the **property owner** ~~applicant~~ may appeal the denial to the town manager by filing a written notice of appeal with the office of the town manager within ten calendar days of the date of denial. The town manager **will** ~~shall~~ review the application for redetermination, including supporting evidence provided with the application, and make a decision to allow or deny the appeal within 30 days of receipt of the completed ~~notice of~~ appeal **application**. The decision **will** ~~shall~~ be in writing, and if denied, **will** ~~shall~~ state the reasons for the denial.

(3) The decision of the town manager may be appealed to Superior Court in the nature of certiorari.

(4) If an application for redetermination is approved, the planning director or the town manager may adjust the fee as long as the adjustment is in conformance with the intent of this article. The stormwater fee **will** ~~shall~~ be adjusted accordingly for the specific parcel and the adjusted rate **will** ~~shall~~ apply to the next regularly generated bill for the entirety of the building period.

(5) No provision of this article allowing for administrative appeal **will** ~~shall~~ be deemed to suspend the due date for payment in full of the stormwater utility service fee.

Sec. 48-285. – Use of revenue; investment of funds; borrowing.

Funds generated for the stormwater management utility from fees, bonds issued, other borrowing and other sources **will** ~~shall~~ be utilized only for those purposes for which the stormwater management utility has been established. Such funds **will** ~~shall~~ be invested and reinvested pursuant to the same procedures and practices established by the **town** ~~city~~ for investment and reinvestment of funds. The town council may use any form of borrowing authorized by law to fund capital acquisitions expenditures for the stormwater management utility.

READ, APPROVED AND ADOPTED, by a vote of **4 to 0** on this the 14th day of September 2026.

****

8.B. Public Hearing to Amend Chapter 2, Building Regulations, Section 2.3, Flood Damage Prevention Ordinance.

Stormwater Technician and Floodplain Administrator Anne Phillip presented this item to Council. Anne stated the Hazard Mitigation Section of the North Carolina Department of Emergency Management published a new model flood damage prevention ordinance in 2025. The new model ordinance removes the coastal regulations and adds some regulations from lessons learned from Tropical Storm Helene. Staff reviewed the new model ordinance against the current ordinance and made amendments to better align with the model ordinance. The proposed amendments were reviewed by the Planning Board at their July 27th, 2026 meeting and recommended sending the proposed amendments forward to Town Council. The proposed amendments have also been reviewed by the National Floodplain Insurance Program (NFIP) with no additional changes needed. Anne reviewed 17 proposed changes with Council. These include the following:

2026 Flood Damage Prevention Ordinance proposed changes:

1. Include ALL required definitions from the NFIP 2026 Non-Coastal Model Ordinance.
2. Include new sections of text that NFIP added to the 2026 Model in green text.
3. Include some optional language, in blue in 2026 Model, that either I or the Planning Board felt should be included for Black Mountain.
4. Article 1 Section D Objectives- our draft does not include 6,7, or 8 that are in the Model. We combined the language of #6 from the model with #5 in our ordinance and added 7 and 8 from the Model to our ordinance.
5. Planning Board recommended increasing Freeboard from our current 2' above BFE to 4' above BFE. That is included in the draft as presented.
6. Changed Repetitive Loss definition to 5-year period instead of 10 as suggested in the Model. Repetitive Loss Property definition still uses the 10-year threshold.
7. Chose to retain the current one-year period for SD/SI calculations instead of adopting a longer timeframe suggested in the model (5 or 10 year) and retained the 50% threshold instead of adopting a lower percentage damage trigger.
8. Planning Board recommended including an additional definition of SD that is flood-related damage sustained by a structure on two separate occasions during a 10-year period where cost of repairs at the time of each flood event equals or exceeds 25% of market value.
9. Penalties for violation are now in line with the Model (Article 3 Section H- fined not more than $500.
10. Substantial new language from the 2026 Model regarding violations was added (Article 4 Section D Corrective Procedures).
11. Amended Article 4 Section E Variance Procedures to follow the 2026 Model.
12. Article 5 Section A (17) – BIG CHANGE to include optional language proposed by the Model- to prohibit use of fill to elevate or support a structure in the SFHA.
13. Article 5 Section B (4) we added d & e: d) will not be temperature controlled or conditioned, e) property owners will be required to execute and record a non-conversion agreement.
14. Article 5 Section B (8) specifies requirements for different size accessory structures.
15. Article 5 Section B (9) TANKS and Section (10) were not in our current ordinance but are in the Model. They are both included in the current draft.
16. Neither I nor Planning Board recommended including the optional Article 5 Section C which would have added regulations to the 0.2% ACF which currently is not regulated by the Flood Damage Prevention Ordinance.
17. Planning Board said that they would defer to any comments from NFIP so that way we wouldn't have to take this back to them.

Some discussion ensued about the freeboard, which is currently two (2) feet above base flood elevation. The recommendation from the Planning Board was to increase this freeboard to four (4) feet. Pros and cons were discussed about this freeboard increase.

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Town Council Member Alice Berry made a motion to open the public hearing. A vote of 4-0 in favor. Council Member Larry Harris was absent. The time was 7:49 p.m. No public comment was provided. Vice Mayor Archie Pertiller then made a motion to close the public hearing. A vote of 4-0 in favor.

Additional discussion ensued between Council and staff. Town Attorney Craig Justus recommended keeping the freeboard at two (2) feet and briefly discussed fill dirt / infill regulations. Anne stated the Planning Board's rationale for the freeboard increase was to make people feel safer. After more discussion, Council was in consensus to exclude what the Planning Board recommended with the freeboard and provisions in Article 5, section B to remain as is.

Town Council Member Alice Berry made a motion to approve the following ordinance, but to keep the freeboard at two (2) feet and to keep Article 5, Section B as it is currently written. A vote of 4-0 in favor. Council Member Larry Harris was absent.*

***Due to its length, a copy of this ordinance, O-26-24, is included at the end of these minutes as Appendix B.**

****

8.C. Public Hearing to Amend Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge.

Stormwater Technician and Floodplain Administrator Anne Phillip reviewed the suggested list of changes and the reasons for the proposed updates. Anne stated that staff has compared the current ordinance to the model ordinance and have proposed amendments that will make the ordinance easier to understand and follow. Additional definitions have been added, and the illicit discharge section will move from the Environment Chapter of the Code of Ordinances to the Phase II Stormwater Ordinance. Anne provided a document on the recommended updates to the Council. **This document is included at the end of these minutes as Appendix C.** The Planning Board reviewed the proposed amendments at their July 27th, 2026 meeting and recommended the proposed amendments be approved.

Town Council Member Alice Berry made a motion to open the public hearing. A vote of 4-0 in favor. Council Member Larry Harris was absent. The time was 8:17 p.m. Cheryl Milton spoke about the requirements for the stormwater review process. With no other comment, Vice Mayor Archie Pertiller made a motion to close the public hearing. A vote of 4-0 in favor.

The Council then took a five-minute recess at 8:20 p.m.

After additional discussion, Council did not take any action on this item but tabled the item until the October 12, 2026 meeting.

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9. CITIZEN COMMENTS- None.

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10. UNFINISHED BUSINESS

10.A. Discussion of Public Safety Building Facilities

Mayor Sobol has requested this agenda item to discuss the Public Safety facilities that include the existing building and forthcoming modular units for Police and Fire. Mayor Sobol would like to obtain a structural engineer for the existing Public Safety Building and get a report. Interim Manager Hicks stated currently that there is $0 in the budget to fix the building, and the Town would need to borrow funds which would need Local Government Commission (LGC) approval. The Mayor stated the cost for obtaining a structural engineer is approximately $10,000. Mr. Hicks stated the monies would need to come out of contingency funds for this. The Town Attorney stated to let the Manager vet it first and the Council could give him discretion to find the companies to perform this structural engineering work. ***Town Council Member Alice Berry made a motion to authorize the Town Manager to secure a structural engineer to preform work with the amount not to exceed $10,000. A vote of 4-0 in favor. Council Member Larry Harris was absent.***

11. NEW BUSINESS

11.A. Resolution to Amend the Fiscal Year 2026-27 Schedule of Fees for facility rental fee increases for the Lakeview Clubhouse facility.

Recreation & Parks Director Jacob Guiot stated the Lakeview Clubhouse rental fee schedule has not been updated since 2024, and the facility has not been available for rental since Hurricane Helene. In preparation for future rentals, Town staff obtained four quotes for cleaning services, with the lowest quote received being $125 per rental. The proposed fee schedule amendment would increase each rental rate by $50 to help offset the increased cost of cleaning and operating the facility. The amended rates would be $430 for residents, $490 for non-residents, $370 for nonprofit organizations, and $280 for Town employees.

Upon approval, the FY26-27 Schedule of Fees will be updated to reflect these amended rental fees for the Lakeview Clubhouse facility.

Vice Mayor Archie Pertiller made a motion to approve the following resolution. A vote of 4-0 in favor. Council Member Larry Harris was absent.

RESOLUTION AMENDING THE LAKEVIEW CLUBHOUSE RENTAL FEES & AMENDING THE FISCAL YEAR 2026-27 TOWN FEE SCHEDULE

RESOLUTION NO. # R-26-81

WHEREAS, the Town of Black Mountain maintains and operates the Lakeview Clubhouse for public use; and

WHEREAS, the rental fees for the Lakeview Clubhouse have not been adjusted since 2024, and the facility has not been available for rental since Hurricane Helene; and

WHEREAS, the cost of providing cleaning services for the Lakeview Clubhouse has increased significantly, and Town staff obtained four quotes for these services, with the lowest quote received being $125 per rental; and

WHEREAS, the proposed fee schedule amendments are a result of increasing costs of services that are needed to operate Lakeview as a public rental facility, and a senior center. The proposed adjustment to the Lakeview Clubhouse rental fees is reasonable and necessary to offset increased cleaning and operating expenses;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that the rental fees for the Lakeview Clubhouse is hereby amended as follows:

Rental Classification	**Current Fee**	**Amended Fee**
Resident	$380.00	$430.00
Non-Resident	$440.00	$490.00
Nonprofit Organization	$320.00	$370.00
Town Employee	$230.00	$280.00

BE IT FURTHER RESOLVED that these fee amendments shall become effective upon adoption of this resolution and the Town of Black Mountain's Fee Schedule for Fiscal Year 2026-27 shall be amended to reflect the new rental fees for the Lakeview Clubhouse.

Adopted this the 14th day of September 2026.

****

11.B. Agreement For Engineering Services With McGill Associates, PA for Water Resiliency Project.

Interim Town Manager Richard Hicks stated that the Town of Black Mountain has been awarded almost $10 million dollars from the State Revolving Fund (SRF) Helene Water Resiliency Project which would include the following scopes of work: development of up to four new water supply wells, rehabilitation of ten existing water supply well and common well treatment building, replacement of existing well supply water lines, proposed water storage tank, relocation of two existing water lines, fourteen water line stream crossings by direction drill or open cut, and standby generator and electrical improvements at existing booster pump stations. Staff is recommending that the Town execute an engineering agreement with McGill Associates, PA for the design work on the project. The total cost of their services, under the agreement, would be $1,410,000.

Vice Mayor Archie Pertiller made a motion to authorize the Interim Town Manager to execute the engineering agreement with McGill Associates, PA, for the Water Resiliency Project, Resolution No. # R-26-82. A vote of 4-0 in favor. Council Member Larry Harris was absent.

Due to size, a copy of this engineering agreement, Resolution No. # R-26-82, is included at the end of these minutes as Appendix D.

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12. CLOSED SESSION. No Closed Session was held.

****

13. ADJOURNMENT.

Before adjournment, there was a short discussion of the previously held Public Hearing for Phase II Stormwater Ordinance, Ch. 8, Section 8.2 and Illicit Discharge Text Amendments, Ch. 20, Article X. Town Attorney Justus recommended that this public hearing be opened back up before the end of this meeting, and it can be tabled until the October 12th meeting, but Council closed the hearing earlier in the meeting. This would prevent any re-advertisement of the public hearing if left open by the Council. ***Vice Mayor Archie Pertiller made a motion to reopen the public hearing to Amend Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge, and to continue the hearing at the October 12, 2026, Town Council meeting. A vote of 4-0 in favor. Council Member Larry Harris was absent.***

With no further business to be discussed, Mayor C. Michael Sobol adjourned the meeting at 8:48 p.m.

_____
C. Michael Sobol, Mayor

Attest: _____
Wesley M. Barker, Town Clerk

DRAFT

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Laurel Mabery, Accountant	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Finance
TITLE OF ITEM:	Monthly Tax Collector Report		

SUGGESTED MOTION(S):
Approve the monthly tax collector report as presented.

SUMMARY:

Monthly Tax Collector Report

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

1. Monthly Council Report - August 2026

TOWN OF BLACK MOUNTAIN TAX COLLECTOR'S REPORT

TO: Black Mountain Board of Commissioners

FROM: Laurel Mabery, Municipal Tax Collector

DATE: Monday, October 12, 2026

SUBJECT: August 2026 Tax Collector Report

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

CURRENT YEAR TAX -ADVALOREM TAXES

Billed	$	5,665,507.73
Collected	$	214,882.55
Adjustments and Releases	$	4,926.03
Outstanding real and personal property taxes	**$**	**5,455,551.21**

TAX COLLECTION PERCENTAGE FOR CURRENT TAX YEAR 3.79%

PRIOR YEAR TAXE(S) COLLECTED WITHIN THE MONTH

Collected	$	2,080.46
Adjustments and Releases		

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

Ad Valorem	$ 3,190.20
Motor Vehicle	$ 60.00

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Michelle Kennedy, Planning Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Planning & Development Services

TITLE OF ITEM: Call for Public Hearing for Text Amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7.11 TND Traditional Neighborhood District (master planned), Section 4.7.11.5 Design Standards to clarify public and private streets to be held on Monday, November 9, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, N.C. or as soon thereafter as possible.

SUGGESTED MOTION(S):

I move to call for a public hearing for text amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7.11 TND Traditional Neighborhood District (master planned) to clarify public and private streets to be held on Monday, November 9, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

SUMMARY:

There is confusion in the language of these two sections regarding public and private street access and design. The proposed amendments seek to clarify the confusion.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

1. LEGAL_NOTICE_LOT_ACCESS

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, November 9, 2026, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, November 9, 2026, at 6:00 p.m**. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7 Zoning Regulations by District, Section 4.7.11 TND Traditional Neighborhood District (master planned), Section 4.7.11.5 Design Standards, to clarify public and private streets.

The meeting is open to the public.

Wesley M. Barker
Town Clerk

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

Posted to the Town Bulletin Board 10/15/2026
Published in the Black Mountain News 10/22/2026 and 10/29/2026
www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Matt Begley, Recovery & Capital Programs Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Administration

TITLE OF ITEM: Authorization of Master Service Agreement with Anchor QEA, PLLC

SUGGESTED MOTION(S):
Motion to approve the following resolution as presented.

SUMMARY:

Attached is an MSA negotiated with Anchor QEA, clarifying the relationship with the Town. Anchor QEA was selected through a qualifications-based process as the firm to perform design and engineering work associated with Flat Creek Greenway repairs.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-XX_Resolution to Approve the MSA with Anchor QEA
2. Anchor QEA Master Service Agreement Draft

Council Member _____ made a motion to approve the following resolution. A vote of _-_ in favor.

A RESOLUTION TO APPROVE THE MASTER SERVICE AGREEMENT WITH ANCHOR QEA, PLLC FOR ENGINEERING AND DESIGN SERVICES

RESOLUTION NO. R-26-XX

WHEREAS, the Town experienced substantial damage to public infrastructure from Tropical Storm Helene; and

WHEREAS, the Town initiated a qualifications-based selection for engineering firms to procure engineering services for Town recovery projects; and

WHEREAS, Anchor QEA, PLLC was selected as the most qualified firm for the Flat Creek Greenway project; and

WHEREAS, Town staff and Anchor have discussed terms and conditions for establishing a relationship between the two entities and will be performing work in accordance with an MSA and the scope of task orders should the MSA be approved; and

WHEREAS, this MSA will supersede any other agreements previously entered into between Anchor QEA, PLLC and the Town of Black Mountain, with the scope of work approved on September 14, 2026 for design services related to Flat Creek Greenway remaining in effect and operating under this version of the MSA;

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the attached Master Service Agreement with Anchor QEA, PLLC.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any documents or other items required to implement these changes.

Adopted this 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

Attest:

_____
Wesley M. Barker, Town Clerk

STANDARD SERVICE AGREEMENT

This AGREEMENT, dated as of September 4, 2026 "Execution Date" is entered into by and between Anchor QEA of North Carolina, PLLC, a North Carolina Professional Limited Liability Company, and affiliated companies, herein referred to as "Anchor QEA," and Town of Black Mountain, 160 Midland Avenue, Black Mountain, North Carolina 28711, United States, hereinafter called "CLIENT."

This AGREEMENT is to perform consulting services for the Assessment and Restoration Options for Flat Creek Greenway project.

PROVISIONS

ARTICLE 1: TERMS OF PAYMENT

A. Invoicing and Payment

Monthly invoices will be issued to the CLIENT for payment, representing the value of the Scope of Services completed to date. Payment is due within 30 calendar days from the date of the invoice. To the extent permissible by law, any undisputed invoice or portions thereof not paid within 30 calendar days shall bear interest at the rate permitted under the North Carolina Prompt Pay Act. If the CLIENT disputes any invoice or charge, they must notify Anchor QEA in writing within thirty (30) business days of receipt of the disputed invoice, and both parties shall work in good faith to resolve the dispute within thirty (30) calendar days. Any undisputed portion remains due and payable within the original payment terms. Final payment will be made upon completion of the Scope of Services, receipt of all deliverables, and all project-related documents required under this AGREEMENT.

B. Financial Adjustment and Overpayment Allocation

In the event of any overpayment, Anchor QEA reserves the right to offset such amounts against any future payments due from the CLIENT. This right extends beyond the specific agreement or project to any outstanding obligations the CLIENT may have with Anchor QEA.

C. Payment Default and Remedies

If the CLIENT fails to make payment within the specified timeframe, Anchor QEA may at its sole discretion:

-
- Suspend ongoing services until full payment is received.
- Terminate this AGREEMENT for non-payment.
- Pursue legal action to recover outstanding balances, with CLIENT responsible for necessary collection and legal costs only in the manner and to the extent permitted under North Carolina law, including but not limited to the NC Tort Claims Act, and without waiver of CLIENT'S sovereign immunity.

D. Outstanding Payment Resolutions and Lien Rights

Anchor QEA reserves the right to:

- Engage a collection agency or initiate legal proceedings to recover unpaid amounts, including necessary attorneys' fees and court costs only in the manner and to the extent permitted under North Carolina law, including but not limited to the NC Tort Claims Act, and without waiver of CLIENT'S sovereign immunity.
- Place a lien on the CLIENT's assets, including project deliverables and real property, in accordance with applicable lien laws.

E. Legal Compliance and Subpoena Cost Reimbursement

In the event that Anchor QEA is required to respond to a subpoena, deposition, or other legal request related to the CLIENT's project, the CLIENT shall reimburse Anchor QEA for all reasonable costs incurred, including employee time, and other related expenses.

ARTICLE 2: OBLIGATION OF ANCHOR QEA

A. Scope of Work

Anchor QEA shall perform the agreed-upon Scope of Services to the agreed-upon Standard of Care. The parties agree that Anchor QEA's scope of work is limited to the services expressly outlined in the attached Scope of Services Document. Any services not included in the attached Scope of Services document are expressly excluded.

B. Independent Contractor

Anchor QEA is an independent contractor and will maintain complete control of and responsibility for its employees, agents, and operations.

C. Lower Tier Subcontracts

Anchor QEA shall not sublet or assign any of the work covered by this AGREEMENT, except with the prior written approval of the CLIENT and in compliance with the terms, provisions, and conditions of this AGREEMENT. Anchor QEA will bind all Lower Tier Subconsultants to the provisions of this AGREEMENT.

Neither this AGREEMENT nor any Lower Tier subcontract will create any contractual relationship between any Lower Tier Subconsultant and the CLIENT nor any liability of the CLIENT to any Lower Tier Subconsultant.

D. Standard of Care

In providing services under this AGREEMENT, Anchor QEA will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the community.

Anchor QEA warrants that the services will meet the agreed-upon specifications and Standard of Care but MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

E. Notice of Delay

The time schedule for the performance of services as set forth under this AGREEMENT is based on Anchor QEA's anticipation of the orderly and continuous progress of the project. If Anchor QEA is delayed in the performance of services by conditions beyond its control, Anchor QEA shall notify the CLIENT in

writing of the cause of delay and the amount of delay anticipated. Such notice shall be delivered to the CLIENT within five (5) days of the time Anchor QEA is aware of the delay. The CLIENT will not penalize Anchor QEA, whether financially or otherwise, for any delays beyond its control. Anchor QEA will be entitled to a reasonable extension of time to perform its scope of work under the AGREEMENT for delays beyond its control.

F. Insurance

Anchor QEA will maintain throughout this AGREEMENT the following insurance and will submit certificates verifying such to the CLIENT when requested: Anchor QEA shall cause Client to be listed as an additional insured on any applicable general liability insurance policy carried by Anchor QEA that is applicable to the scope of services.

1. Worker's compensation insurance as required by the state or province where the work is performed and Employers Liability insurance as follows:

   $1,000,000 each accident
   $1,000,000 each employee
   $1,000,000 disease aggregate

2. Commercial automobile liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with a $1,000,000 combined single limit.
3. Commercial general liability insurance covering claims for injuries arising out of any negligent act or omission of Anchor QEA or of any of its employees, agents, or subconsultants, with $1,000,000 per occurrence/general aggregate.
4. Professional liability insurance of $1,000,000, per claim and in the aggregate.

Anchor QEA will give the CLIENT thirty (30) days' notice of any cancellation of the policies or 10 days' notice for cancellation due to non-payment of premiums. CLIENT shall require all other consultants to have similar or greater coverages and limits.

G. Indemnification

Anchor QEA and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability, or cost, including reasonable attorneys' fees and costs of defense, arising from the indemnitee's own negligent acts, negligent errors, or negligent omissions in the performance of their services under this AGREEMENT.

H. Consequential Damages

Notwithstanding any other provision of this AGREEMENT, and to the fullest extent permitted by law, neither the CLIENT nor Anchor QEA, their respective officers, directors, partners, employees, contractors, or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the project or to this AGREEMENT. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, or any other consequential damages that either party may

have incurred from any cause of action, including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the CLIENT and Anchor QEA shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

I. Permits, Licenses, and Fees

Anchor QEA will obtain and pay for all permits and licenses required by law that are associated with Anchor QEA's performance of the Scope of Services and will give all necessary notices.

J. Access to Records

Anchor QEA will maintain accounting records in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. Said records will be available for examination by the CLIENT during Anchor QEA's normal business hours for a period of 3 years after the final invoice to the extent required to verify the costs incurred hereunder.

K. Ownership

CLIENT retains ownership of all instruments of professional service developed by Anchor QEA under this AGREEMENT upon full payment of all balances due. Anchor QEA shall not be liable for any reuse or modification of these work products for purposes not anticipated or agreed to in writing by Anchor QEA under this AGREEMENT.

L. Equal Employment Opportunity

Anchor QEA, with regard to the work performed by it after approval and/or award and prior to completion of this contract, shall comply with all applicable provisions of Executive Agreement 11246 of September 24, 1965, as amended, the terms of which are incorporated herein by this reference and made a part of this AGREEMENT. Anchor QEA will provide equal employment opportunity and adhere to federal, state, and local laws pertaining thereto. Appropriate action will be taken by Anchor QEA with respect to itself and any of its subconsultants, vendors, and suppliers to ensure compliance with such laws. All federal, state, and local equal opportunity and affirmative action requirements with regard to race, gender, creed, color, age, religion, national origin, disability, or veteran status are incorporated into this AGREEMENT by reference. Anchor QEA will give all notices, pay all fees, and take all other action that may be necessary to conduct its business in accordance with all applicable statutes, ordinances, rules, and regulations including, without limitation, the above stated standards and acts, any statutes regarding qualification to do business, and any statutes prohibiting discrimination among employees because of race, creed, color, national origin, age, or sex.

M. Marketing Rights

CLIENT grants Anchor QEA permission to use non-confidential project information, including but not limited to designs, photographs, and outcomes, in marketing materials such as brochures, websites, and social media. Anchor QEA shall ensure that any such use respects the confidentiality obligations outlined in this AGREEMENT.

N. Attribution and Credit

Anchor QEA reserves the right to attribute project work to itself in promotional materials, including but not limited to case studies, press releases, and other public communications. CLIENT agrees that such attributions will not require additional approval unless explicitly requested in writing prior to project completion.

ARTICLE 3: GENERAL PROVISIONS

A. Waivers

No waiver by either party of any default by the other party in the performance of any provision of this AGREEMENT will operate as, or be construed as, a waiver of any future default, whether like or different in character.

B. Force Majeure

Neither party to this AGREEMENT will be liable for any failure or delay in performing its obligations under this AGREEMENT (except for payment obligations) due to events beyond its reasonable control ("Force Majeure Events"). Force Majeure Events include, but are not limited to, natural disasters (such as floods, fires, earthquakes, pandemics, or epidemics), explosions, wars, acts of terrorism, riots or civil unrest, government actions or orders, embargoes, blockades, national or regional emergencies, labor strikes or slowdowns, and shortages of power, materials, or transportation.

C. Authorization to Proceed

Execution of the AGREEMENT by the CLIENT will be authorization for Anchor QEA to proceed with the Scope of Services, unless otherwise provided for in this AGREEMENT.

D. No Third-Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than Anchor QEA and the CLIENT and has no third-party beneficiaries.

E. Jurisdiction

The laws of the State of North Carolina shall govern the validity, interpretation, performance, and enforcement of this AGREEMENT, as well as any claims related thereto. The venue for any legal action, mediation, or arbitration shall be in King County, Washington.

F. Disputes

Any dispute arising under this AGREEMENT may be settled by mediation in the State of North Carolina in accord with such procedures as may be acceptable to the parties.

G. Severability and Survival

If any provision of this AGREEMENT is determined to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity or enforceability of any other provision. The parties agree that the remaining provisions shall remain in full force and effect as if the invalid, illegal, or unenforceable provision had never been included in this AGREEMENT.

To the fullest extent permitted by law, the parties further agree to replace any such invalid, illegal, or unenforceable provision with a valid and enforceable provision that most closely reflects the original intent and economic effect of the invalidated provision, upon consent of both parties.

All obligations, rights, warranties, indemnities, confidentiality obligations, and any provisions that by their nature should survive, including but not limited to those relating to **payment, intellectual property, and indemnification**, shall remain in effect beyond the termination, expiration, or completion of services under this AGREEMENT, regardless of the reason for termination.

Any attempt by either party to challenge or negate the enforceability of this section shall constitute a material breach of this AGREEMENT.

H. Term and Termination

This AGREEMENT begins on the Effective Date and continues until the services are completed.

Either party may terminate this AGREEMENT immediately by written notice if the other party:

1. Materially breaches this AGREEMENT and fails to cure the breach within 15 calendar days after receiving written notice;
2. Becomes insolvent or unable to pay its debts when due;
3. Files for bankruptcy or becomes subject to involuntary bankruptcy not dismissed within 30 days;
4. Is dissolved or liquidated;
5. Makes a general assignment for the benefit of creditors; or
6. Has a receiver, trustee, or similar agent appointed over a substantial portion of its assets.

I. Complete Agreement

This AGREEMENT constitutes the complete and final understanding between the parties. The CLIENT may adjust the Scope of Services by either adding to or deleting from the services to be performed. If such adjustment increases or decreases the cost or time required for Anchor QEA's Scope of Services, adjusting compensation and/or time will be mutually agreed upon in writing. Additional services provided by Anchor QEA will be entitled to additional compensation or extension of time only as authorized in writing by the CLIENT.

J. Confidentiality

All business records not subject to disclosure or not required to be disclosed pursuant to North Carolina law, including but not limited to the North Carolina Public Records Act, are deemed confidential when disclosed by one party to the other.

These obligations shall survive the termination or completion of this AGREEMENT.

K. Change Order

If additional work beyond the original scope or schedule is required, Anchor QEA will submit Change Order Requests for approval. The CLIENT agrees to compensate Anchor QEA for any such additional work at the agreed-upon rates. Anchor QEA is not obligated to perform work related to unapproved Change Order Requests. Change Order Request approvals must be timely and in writing. The CLIENT's failure to timely approve a change order in writing relieves Anchor QEA from performing the Change Order Request's work.

Anchor QEA will not be held liable for delay damages as a result of the CLIENT's failure to timely approve a Change Order Request. Failure to tender payment to Anchor QEA for performances rendered under an approved Change Order Request shall be considered a material breach of this AGREEMENT.

L. Attachments and Schedules

The attached provisions within Attachment - *Federally Required Terms and Conditions,* are included solely to address specific requirements that may apply when this agreement is funded, in whole or in part, by federal sources. These provisions are intended to supplement the terms of the standard agreement and do not modify or override its existing terms and conditions.

Nothing in the attached provisions shall alter the parties' obligations related to indemnification, standard of care, or any other core terms of the standard agreement. In the absence of federal funding, the attached provisions shall not apply.

The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment 1: Scope of Services and Budget

Attachment 2: Federally Required Terms and Conditions

This AGREEMENT represents the entire agreement between the parties, supersedes all prior agreements and understandings, and may be changed only by written amendment executed by both parties.

Approved for Anchor QEA		**Accepted for Town of Black Mountain,**	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Matt Begley, Recovery & Capital Programs Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Resolution to Approve Force Account Labor Exemption - Town Roads Group 1		

SUGGESTED MOTION(S):
Motion to approve the resolution as presented.

SUMMARY:

Town staff have proposed that the scope of work outlined for the Town Roads Group 1 project, recently awarded through the FEMA Public Assistance program, may be completed using in-house labor and materials. Per NCGS § 143-135, the governing board must approve an exception to the bidding process for the jurisdiction to use its own officers or employees for construction or repair work in this manner.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-XX_Resolution to Approve a Force Account Exception - Town Roads Group 1

Council Member _____ made a motion to approve the following resolution. A vote of _-_ in favor.

A RESOLUTION TO APPROVE THE AUTHORIZATION OF A FORCE ACCOUNT EXCEPTION FOR THE TOWN ROADS GROUP 1 PROJECT REPAIRS

RESOLUTION NO. R-26-XX

WHEREAS, many Town roads were damaged during Tropical Storm Helene; and

WHEREAS, documented road damages were divided into two FEMA projects based on the extent of damages; and

WHEREAS, FEMA has now obligated adequate funding to complete the scoping for the Town Roads Group 1 project; and

WHEREAS, Town staff have assessed that the Town will be able to complete the scope of work for these roads using in-house labor and expertise; and

WHEREAS, North Carolina General Statute requires Towns to authorize a force account exception to use their own officers or employees to perform construction or repair work in this manner to exclude the work from the standard bidding requirements for construction and repair work per NCGS § 143-135;

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

1. The Town Council approves the use of a force account exception for the Town Roads Group 1 project and authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute any documents necessary to convey this exception to the standard requirements for public contracting.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any documents or other items required to implement these changes.

Adopted this 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

Attest:

_____
Wesley M. Barker, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Matt Begley, Recovery & Capital Programs Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Administration

TITLE OF ITEM: Land of Sky Regional Council Management Contract

SUGGESTED MOTION(S):
Motion to approve the resolution as presented and authorize the Interim Town Manager to execute the attached contracts.

SUMMARY:

The Town Council will consider a master services agreement and 3 task orders from Land of Sky Regional Council to perform grant administration services for the town's SRF, Blueprint, and StRAP projects.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-XX_RESOLUTION AUTHORIZING THE MASTER SERVICES AGREEMENT AND 3 TASK ORDERS WITH LAND OF SKY REGIONAL COUNCIL FOR GRANT ADMINISTRATION SERVICES
2. Master Service Agreement _ Town of Black Mountain
3. Town of Black Mountain Task Order Authorization _ 001
4. Town of Black Mountain Task Order Authorization _ 002
5. Town of Black Mountain Task Order Authorization _ 003

Council Member _____ made a motion to approve the following resolution. A vote of _-_ in favor.

A RESOLUTION AUTHORIZING THE MASTER SERVICES AGREEMENT AND 3 TASK ORDERS WITH LAND OF SKY REGIONAL COUNCIL FOR GRANT ADMINISTRATION SERVICES

RESOLUTION NO. R-26-XX

WHEREAS, the Town has been awarded grant funding for the State Revolving Fund (SRF), DEQ Blueprint project, and StRAP project; and

WHEREAS, the Town requires grant management services in order to effectively execute these project and administrate these funds; and

WHEREAS, Land of Sky Regional Council has submitted to the Town a task order outlining their proposed scope and cost for grant administration services for these projects;

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with Land of Sky to perform grant administration tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

Adopted this 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

Attest:

_____
Wesley M. Barker, Town Clerk

MASTER SERVICES AGREEMENT

Type of Award: _____ Sub-Award __X__ Purchase of Goods & Service	**Contract No:** __X__New _____ Modification
LOSRC	**Community**
Land of Sky Regional Council 339 New Leicester Hwy, Suite 140 Asheville, NC 28806	**Town of Black Mountain** 160 Midland Ave Black Mountain NC 28711
1. **EIN:** **561024369** 2. **UEI:** **HS8MVFRAYH57** 3. **Proposal/Project Title:** Town of Black Mountain Grant Administration	**Source of Funding:** Prime Sponsor: Federal & State Federal Aid Number: CFDA: 66.468 (DWSRF) **Federal Provisions Applicable: Yes** *[if marked, **Federal Funds** clause is included in compliance with 2 CFR Part 200]*
4. Grant Code: / **5. Vendor #:**	6. **Funding Information/Period of Performance:** a. Amount Funded this Action: $155,852.70
7. Invoicing Schedule: Quarterly (unless otherwise specified in a specific task order)	c. Total Funds: $155,852.70 d. Start Date: 10/1/2026 a. End Date: 6/30/2029
***FISCAL PRE-AUDIT CERTIFICATE**: This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act*	
Signature: _____ **Finance Officer:** Jay Copely	**Date:** _____

LOSRC Principal Contact: Name: Mary Roderick Phone: 828.251.6622 Email: mary@landofsky.org	**LOSRC Department Director:** Name: Erica Anderson Phone: 828.251.7442 **Initial: EA** Email: erica@landofsky.org
	LOSRC Financial Officer: Name: Mike Blount Phone: 828.251.6622 Email: mike@landofsky.org
Send Invoice to: Finance Officer Name: Jay Copely Phone: (828) 419-9300 Email: Jay.copely@tobm.org	**Send Payment to:** Accounts Receivable Land of Sky Regional Council 339 New Leicester Hwy, Suite 140 Asheville, NC 28806

The undersigned hereby certifies further that:

- He or she is a duly authorized representative of the Entity named herein;
- He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Entity; and
- He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1and -59.2 shall be guilty of a Class I felony

Land of Sky Regional Council	***Town of Black Mountain***
Signature: _____	Signature: _____
Name: Nathan Ramsey Title: Executive Director	Name: Richard N. Hicks Title: Interim Town Manager
Date: _____	Date: _____

MASTER SERVICES AGREEMENT
between

LAND OF SKY REGIONAL COUNCIL

and

TOWN OF BLACK MOUNTAIN

for Grant Administration Services

THIS AGREEMENT, entered into on the day of _____***, by and between*** the **Town of Black Mountain**, North Carolina, hereinafter referred to as the "Town," and **Land of Sky Regional Council**, hereinafter referred to as the "Council."

WITNESSETH that:

WHEREAS, the Town receives and anticipates receiving federal and state grant funding for community development, infrastructure, economic development, environmental, disaster recovery, water, wastewater, housing, and public facilities projects; and

WHEREAS, the Town desires to engage the Council to provide grant administration and related professional services on an as-needed basis; and

WHEREAS, the parties desire to establish a Master Services Agreement whereby specific services may be authorized through individual Task Orders issued during the term of this Agreement;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. SCOPE OF WORK

The Council shall provide professional grant administration and related support services as requested by the Town and authorized through individual Task Orders. Services may include, but are not limited to, the following:

a) Program Coordination and Communication

Coordinate and communicate with Town staff, funding agencies, regulatory agencies, contractors, subrecipients, and other project stakeholders regarding all aspects of grant-funded projects and program requirements.

b) Compliance Management

Review applicable grant agreements, policies, regulations, guidance, procedures, and program requirements and assist the Town in maintaining compliance with all applicable federal, state, and local requirements.

c) Documentation and Records Management

Identify, organize, maintain, and assist in the collection of all documentation necessary to support grant administration, reimbursement requests, monitoring activities, audits, and project closeout.

d) Procurement and Contract Administration Support

Assist the Town with procurement planning, solicitation development, procurement compliance reviews, contract administration, and acquisition of goods and services in accordance with applicable funding source requirements and procurement regulations.

e) Environmental and Regulatory Compliance

Assist with environmental review requirements, historic preservation requirements, permitting coordination, labor standards compliance, and other regulatory requirements associated with grant-funded projects.

f) Financial Management

Review expenditures, contractor invoices, consultant invoices, and supporting documentation for eligibility, allowability, allocability, and compliance with grant requirements.

g) Reimbursement and Payment Requests

Prepare, process, and submit reimbursement requests, drawdown requests, payment requests, and supporting documentation required by funding agencies.

h) Reporting

Prepare and assist with the submission of required progress reports, financial reports, performance reports, closeout reports, and other grant-related reporting requirements.

i) Monitoring And Audit Support

Provide support for monitoring visits, desk reviews, compliance reviews, inspections, audits, and other oversight activities conducted by funding agencies or authorized representatives.

j) Project Closeout

Perform grant closeout activities, including final reporting, financial reconciliation, records organization, resolution of outstanding compliance issues, and completion of all funding agency closeout requirements.

k) Additional Services

Provide other grant administration, project management, compliance, financial management, procurement support, technical assistance, capacity building, and related professional services as may be requested by the Town and authorized through a Task Order.

2. TASK ORDERS

This Agreement shall apply to as many grant-funded projects as the Town and Council agree to undertake. The Town may authorize services under this Agreement through a written Task Order Authorization. [See Exhibit A under Attachments]

Each Task Order shall include:

a. Project Information;

b. Project Description;

c. Period of Performance;

d. Compensation Method with Not-to-Exceed Amount; and

e. Special Federal or State Requirements.

f. Authorization

Upon execution by both parties, each Task Order shall become part of this Agreement and shall be governed by all terms and conditions herein.

In the event of a conflict between a Task Order and this Agreement, the Task Order shall control only with respect to the specific project covered by the Task Order.

No work shall commence until the Task Order has been fully executed and written authorization to proceed has been issued by the Town.

3. LENGTH OF CONTRACT

The Council and Town shall ensure that all services required herein shall be undertaken and completed in such sequence as to assure expeditious completion of the purposes of this Master Service Agreement within the timeframe established in Box 6 of the Cover Page.

The Town may extend the Agreement for additional months by written amendment.

Task Orders issued prior to expiration of the Agreement shall remain in effect until completion unless otherwise terminated.

4. COMPENSATION AND METHOD OF PAYMENT

The Town agrees to reimburse the Council for the agreed upon Project cost upon submission of an invoice with required supporting documentation. Payment shall be made within thirty (30) days following receipt and approval of a proper invoice. All payments shall be made pursuant to authorization in this Agreement and in the resolution or agenda item in which the specific amount for the project was approved.

5. TERMINATION/MODIFICATIONS

The Council or Town may terminate the contract by giving thirty (30) days' written notice to the other entity (via email). Furthermore, any amendment to this Agreement or any Task Order shall be made only through a formal contract amendment executed by both parties.

The Town may immediately terminate this Agreement or any Task Order for cause, including:

a. Material breach of contract;

b. Failure to comply with grant requirements;

c. Fraud or misrepresentation;

d. Failure to maintain required insurance.

6. ASSIGNMENT OF INTERESTS

The Council shall not assign any interest in this Agreement and shall not transfer any interest in the same whether by assignment or substitution, without the prior written consent of the Town or unless specifically contained in the Master Service Agreement and/or Task Orders.

7. CHANGES

The Council or Town may request changes in the scope of services to be performed.

Any mutually agreed changes, including increases or decreases in compensation, shall be incorporated by written amendment or Task Order modification.

8. RECORDS

The Council shall maintain all financial, procurement, project, and administrative records associated with this Agreement and each Task Order.

Such records shall be retained during the contract period and for a minimum of five (5) years following final payment or project closeout, whichever occurs later.

The Town, State of North Carolina, Federal awarding agencies, Inspectors General, and other authorized governmental representatives shall have access to such records for audit and inspection purposes.

9. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

The Council and Town shall comply with all applicable federal, state, and local laws, ordinances, regulations, executive orders, grant requirements, and administrative guidance applicable to the services provided under this Agreement.

10. INDEMNIFICATION

To the fullest extent permitted by law, the Council agrees to indemnify, hold harmless, and defend the Town, its elected officials, officers, employees, and agents against claims, damages, losses, liabilities, costs, and expenses, including reasonable attorneys' fees, resulting from any negligent act, error, omission, or misconduct of the Consultant, its employees, agents, or subcontractors in performing obligations under this Agreement.

To the fullest extent permitted by law, the Town agrees to indemnify, hold harmless and defend the Council as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Consultant or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

11. NONDISCRIMINATION CLAUSE

No person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of race, color, national origin, religion, sex, age, disability, veteran status, or any other protected classification under any program or activity funded in whole or in part under this Agreement.

12. AGE DISCRIMINATION ACT OF 1975, as amended

No qualified person shall, on the basis of age, be excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

13. SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended

No qualified individual with a disability shall be excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

14. E-VERIFY PROVISION

Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g), the undersigned hereby certifies that the Council, and the Council's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. E-Verify System Link: www.uscis.gov

15. CONFLICT OF INTEREST

The Council shall disclose any actual or potential conflict of interest and shall comply with all applicable federal, state, and local conflict-of-interest requirements.

16. OWNERSHIP OF DOCUMENTS

Upon payment, all reports, grant files, reimbursement packages, monitoring responses, closeout documents, analyses, and project-specific work products prepared for the Town shall become property of the Town.

The Council shall retain ownership of proprietary systems, templates, methodologies, software, and pre-existing intellectual property.

17. FEDERAL FUNDS

The Town shall make all necessary inquiries to correctly identify the source of funding for the Agreement. When services are funded in whole or in part with federal funds, the Council shall comply with all applicable provisions of:

• 2 CFR Part 200;

• 2 CFR Part 200 Appendix II;

• Equal Employment Opportunity requirements;

• Davis-Bacon Act;

• Copeland Anti-Kickback Act;

• Contract Work Hours and Safety Standards Act;

• Clean Air Act;

• Federal Water Pollution Control Act;

• Debarment and Suspension requirements;

• Byrd Anti-Lobbying Amendment;

• Procurement of Recovered Materials requirements;

• Record Retention requirements; and

• Any grant-specific federal requirements imposed by the awarding agency.

18. ATTACHMENTS

The following attachments are incorporated into this Agreement by reference:

Exhibit A – Task Order Authorization Forms

Exhibit B – Byrd Anti-Lobbying Certification

19. FISCAL CONTROL ACT COMPLIANCE

This Agreement is subject to the provisions of the North Carolina Local Government Budget and Fiscal Control Act.

No obligation shall be incurred by the Town unless the requirements of N.C.G.S. §159-28 have been satisfied.

END OF THE MASTER SERVICE AGREEMENT

EXHIBIT A

TASK ORDER AUTHORIZATION

Master Services Agreement for Grant Administration Services

Task Order No.: 001

Date: 10/1/2026

This Task Order is issued pursuant to the Master Services Agreement for Grant Administration Services ("Agreement") between the **Town of Black Mountain, NC** ("Town") and **Land of Sky Regional Council** ("Council"). All terms and conditions of the Agreement are incorporated herein by reference and shall govern this Task Order.

1. PROJECT INFORMATION

Project Title: SRF Drinking Water Resiliency

Grant Program: DWSRF Helene

Funding Agency: DEQ

Grant Number (if applicable): SRF- D-HEL- 0012

2. PROJECT DESCRIPTION

The Town hereby authorizes the Council to provide grant administration services for the project identified above in accordance with the Master Services Agreement.

Project Description:

This Task Order authorizes Land of Sky Regional Council (LOSRC) to provide grant administration, project management, procurement support, financial management, and related professional services to the Town for the implementation of the following projects:

Project	Not-to-Exceed Amount (USD)
SRF Drinking Water Resiliency	$80,000.00
Total Not-to-Exceed Amount	**$80,000.00**

Services may include project coordination; grant and regulatory compliance; procurement and contract administration support; documentation and records management; review of contractor invoices and supporting documentation; preparation and submission of reimbursement requests; financial and performance reporting; coordination with funding agencies, consultants, contractors, and other project stakeholders; monitoring and audit support; and project closeout activities necessary to ensure compliance with applicable federal, state, and local requirements.

3. PERIOD OF PERFORMANCE

Notice to Proceed Date: 10/1/2026

Completion Date: 4/1/2029

4. COMPENSATION

The Council shall be compensated on an **actual cost reimbursement basis** in accordance with the Master Services Agreement and the Schedule of Rates (Exhibit B).

The total compensation authorized under this Task Order shall **not exceed: $80,000.00**

Council shall submit invoices and supporting documentation in accordance with the Master Services Agreement.

5. AUTHORIZATION

This Task Order is effective upon execution by both parties.

TOWN OF BLACK MOUNTAIN, NC

By: _____

Name: Richard Hicks

Title: Interim Town Manager

Date: _____

LOSRC

By: _____

Name: Nathan Ramsey

Title: Executive Director

Date: _____

FISCAL PRE-AUDIT CERTIFICATE

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, **N.C.G.S. § 159-28**.

By:

Finance Officer: Jay Copely

Date: _____

EXHIBIT A

TASK ORDER AUTHORIZATION

Master Services Agreement for Grant Administration Services

Task Order No.: 002

Date: 10/1/2026

This Task Order is issued pursuant to the Master Services Agreement for Grant Administration Services ("Agreement") between the **Town of Black Mountain, NC** ("Town") and **Land of Sky Regional Council** ("Council"). All terms and conditions of the Agreement are incorporated herein by reference and shall govern this Task Order.

1. PROJECT INFORMATION

Project Title: Swannanoa River Floodbench West (Veterans Park)

Grant Program: Flood Resiliency Blueprint

Funding Agency: DEQ

Grant Number (if applicable): 101334-000

2. PROJECT DESCRIPTION

The Town hereby authorizes the Council to provide grant administration services for the project identified above in accordance with the Master Services Agreement.

Project Description:

This Task Order authorizes Land of Sky Regional Council (LOSRC) to provide grant administration, project management, procurement support, financial management, and related professional services to the Town for the implementation of the following projects:

Project	Not-to-Exceed Amount (USD)
Swannanoa River Floodbench West (Veterans Park)	$60,000.00
Total Not-to-Exceed Amount	**$60,000.00**

Services may include project coordination; grant and regulatory compliance; procurement and contract administration support; documentation and records management; review of contractor invoices and supporting documentation; preparation and submission of reimbursement requests; financial and performance reporting; coordination with funding agencies, consultants, contractors, and other project stakeholders; monitoring and audit support; and project closeout activities necessary to ensure compliance with applicable federal, state, and local requirements.

3. PERIOD OF PERFORMANCE

Notice to Proceed Date: 10/1/2026

Completion Date: 6/1/2028

4. COMPENSATION

The Council shall be compensated on an **actual cost reimbursement basis** in accordance with the Master Services Agreement and the Schedule of Rates (Exhibit B).

The total compensation authorized under this Task Order shall **not exceed: $60,000.00**

Council shall submit invoices and supporting documentation in accordance with the Master Services Agreement.

5. AUTHORIZATION

This Task Order is effective upon execution by both parties.

TOWN OF BLACK MOUNTAIN, NC

By: _____

Name: Richard Hicks

Title: Interim Town Manager

Date: _____

LOSRC

By: _____

Name: Nathan Ramsey

Title: Executive Director

Date: _____

FISCAL PRE-AUDIT CERTIFICATE

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, **N.C.G.S. § 159-28**.

By:

Finance Officer: Jay Copely

Date: _____

EXHIBIT A

TASK ORDER AUTHORIZATION

Master Services Agreement for Grant Administration Services

Task Order No.: 003

Date: 10/1/2026

This Task Order is issued pursuant to the Master Services Agreement for Grant Administration Services ("Agreement") between the **Town of Black Mountain, NC** ("Town") and **Land of Sky Regional Council** ("Council"). All terms and conditions of the Agreement are incorporated herein by reference and shall govern this Task Order.

1. PROJECT INFORMATION

Project Title: Flat Creek

Grant Program: StRAP

Funding Agency: NCDA

Grant Number (if applicable): 25-008-4008

2. PROJECT DESCRIPTION

The Town hereby authorizes the Council to provide grant administration services for the project identified above in accordance with the Master Services Agreement.

Project Description:

This Task Order authorizes Land of Sky Regional Council (LOSRC) to provide grant administration, project management, procurement support, financial management, and related professional services to the Town for the implementation of the following projects:

Project	Not-to-Exceed Amount (USD)
Flat Creek StRAP	$15,852.70
Total Not-to-Exceed Amount	**$15,852.70**

Services may include project coordination; grant and regulatory compliance; procurement and contract administration support; documentation and records management; review of contractor invoices and supporting documentation; preparation and submission of reimbursement requests; financial and performance reporting; coordination with funding agencies, consultants, contractors, and other project stakeholders; monitoring and audit support; and project closeout activities necessary to ensure compliance with applicable federal, state, and local requirements.

3. PERIOD OF PERFORMANCE

Notice to Proceed Date: 10/1/2026

Completion Date: 12/31/2027

4. COMPENSATION

The Council shall be compensated on an **actual cost reimbursement basis** in accordance with the Master Services Agreement and the Schedule of Rates (Exhibit B).

The total compensation authorized under this Task Order shall **not exceed: $15,852.70**

Council shall submit invoices and supporting documentation in accordance with the Master Services Agreement.

5. AUTHORIZATION

This Task Order is effective upon execution by both parties.

TOWN OF BLACK MOUNTAIN, NC

By: _____

Name: _____

Title: _____

Date: _____

LOSRC

By: _____

Name: _____

Title: _____

Date: _____

FISCAL PRE-AUDIT CERTIFICATE

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, **N.C.G.S. § 159-28**.

Finance Officer

Date: _____

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Matt Begley, Recovery & Capital Programs Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Resolution to Authorize the Task Order for Downtown Stormwater Design & Engineering Services		

SUGGESTED MOTION(S):
Motion to approve the resolution as presented.

SUMMARY:

Town staff have received the Task Order from the John R. McAdams Company for performing engineering services on the Downtown Stormwater Project (Phase I) funded through the NC Department of Commerce SmallBiz program. The included attachment is a copy of the proposed task order.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-XX_Resolution to Authorize the McAdams TO for Downtown Stormwater Project
2. 2026-05-14 TOB25001.15 Proposal - Downtown Stormwater Improvements Phase 1

Council Member _____ made a motion to approve the following resolution. A vote of _-_ in favor.

A RESOLUTION AUTHORIZING THE TASK ORDER JOHN R MCADAMS CO FOR DESIGN & ENGINEERING SERVICES FOR THE DOWNTOWN STORMWATER PROJECT

RESOLUTION NO. R-26-XX

WHEREAS, the Town applied to the Small Business Infrastructure Grant Program (SmBIZ) through NC Department of Commerce; and

WHEREAS, the Town was awarded funding from the Small Business Infrastructure Grant Program in the amount of $1,000,000 for Downtown Stormwater Improvements; and

WHEREAS, John R. McAdams Company, Inc. was selected as the most qualified firm based on their response to the Town's request for statements of qualification for the project; and

WHEREAS, John R. McAdams Company, Inc. has submitted to the Town a task order outlining their proposed scope and cost for design and engineering services for the project; and

WHEREAS, cash flow funds and reimbursements from the NC DEQ Blueprint program will be recognized in the capital project ordinance for the project entitled "Downtown Stormwater Project";

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with John R. McAdams Company, Inc. to perform engineering and design tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

Adopted this 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

Attest:

_____
Wesley M. Barker, Town Clerk

McAdams
80 Charlotte Street
Suite 40
Asheville, NC 28801
919. 361. 5000

TOB25001.15

May 14, 2026

Matt Begley, MPA
Town of Black Mountain
160 Midland Avenue
Black Mountain, North Carolina 28711

RE: Downtown Stormwater Improvements Project – Phase 1
Black Mountain, North Carolina
TOB25001.15

Dear Mr. Begley,

This proposal includes scope and fee summaries for the Downtown Stormwater Improvements Project in Black Mountain, North Carolina. Outlined below is our understanding of the project and the detailed tasks associated with our overall project effort.

Project Understanding

Site + Project Description

The Town of Black Mountain is seeking engineering support to address stormwater inlet capacity issues within their downtown corridor. There is a lack of inlets on Cherry Street, which is causing overland flooding down the street until the intersection with Sutton Avenue. Additionally, the stormwater infrastructure in the project area is aging and the majority of the pipes are either Terracotta Clay or Corrugated Metal material. This phase of the project proposes to improve the existing outfall through upsizing the pipe and upgrading the pipe material of the green highlighted pipes in **Figure 1**. Focusing this phase on upgrades to the downstream system will allow the Town flexibility in future phases to increase capacity of the upstream system along both Cherry and Broadway Street.

The Town has requested a consultant to evaluate existing conditions, develop downstream alternatives, and prepare construction documents for the necessary improvements. The project area is within an existing Norfolk Southern railway right-of-way, and there are various prevalent utilities also within the project area. We recognize that coordination with NCDOT, Norfolk Southern Railroad, and the U.S. Army Corps of Engineers, along with proximity to other utilities, businesses, and major downtown pedestrian corridors, presents significant technical and logistical challenges. The Town also requires comprehensive design, bidding assistance, and construction administration support to deliver a successful project.

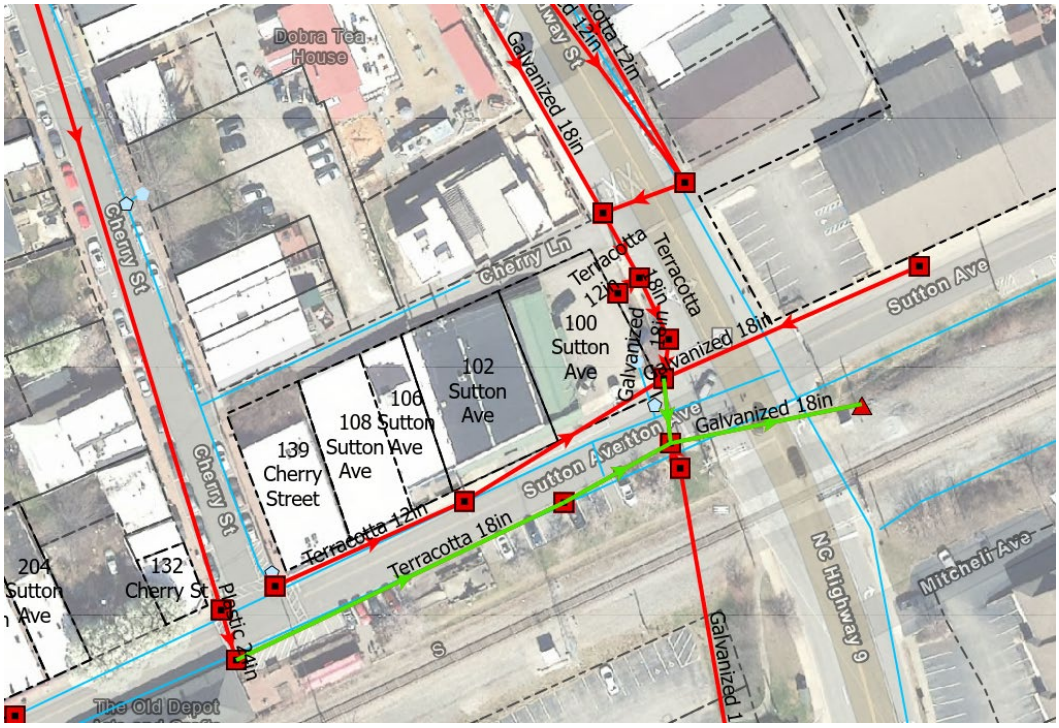


Figure 1: Project Site Location (Green Pipes)

Proposed Scope

McAdams proposes professional engineering services which will include the following elements:

- Project management services throughout the duration of the contract;
- Topographic + Location survey;
- Subsurface Utility Engineering (Level B + Level A);
- Geotechnical Engineering Services;
- Private Utility Coordination;
- NCDOT Coordination;
- Norfolk Southern Railroad Coordination;
- Evaluation of Existing Conditions and Preparation of a Preliminary Engineering Report;
- Construction Document Development and Permitting with the Town of Black Mountain;
- Construction Document Permitting – Outside Agencies (USACE); and
- Bid Phase and Construction Administration Services.

Assumptions

This proposal is based on the following assumptions:

- This project will not require a Sediment and Erosion Control plan approved by NCDEQ (less than 1-ac disturbed area);
- This project will not be subject to review or permitting requirements of the State Construction Office (SCO), as no building improvements are proposed;
- A Traffic Impact Analysis (TIA) will not be required;
- All submittal, application, review, and permit fees are to be paid by the Owner;
- No structural services are included in the scope of this agreement;
- Any public notifications will be coordinated through the Town of Black Mountain;

- Technical Specifications are intended to be based on latest versions from the Engineers Joint Contract Documents Committee (EJCDC), NCDOT, and / or other preferred documentation provided by the Town of Black Mountain; and
- The project will be designed, permitted, and bid as one (1) package with no separate or early packages.

Proposed Services + Fees

We propose the following services (Alphanumeric task numbers are for internal coding purposes):

Due Diligence + Preliminary Design Phase

A4.10 PROJECT ADMINISTRATION:

> FEE: $17,735

Scope of this work consists of all project coordination involved with general project management and execution, as well as coordination with the geotechnical engineer, Town of Black Mountain, USACE, NCDOT, Norfolk Southern, and other general parties as needed. Other pertinent tasks include:

- Project work plan development and kickoff meeting with Town staff;
- Initial project due diligence, site visits (1 initial visit) and other data reconnaissance;
- Monthly progress meetings;
- Attendance at one City Council meeting as needed;
- Coordination with USACE, NCDOT, and Norfolk Southern;
- Periodic project updates and status reports; and
- Coordination with Private Utility entities.

A4.20 HYDROLOGIC AND HYDRAULIC MODELING:

> FEE: $24,270

Scope of this work consists of hydrologic and hydraulic (H+H) modeling of existing conditions and design alternatives. This work includes:

- McAdams will use survey data within project limits and supplement with GIS utility information to develop a hydrologic and hydraulic model of the existing stormwater system within the identified drainage area;
- Existing and design alternative system performance will be documented during typical design storm recurrence intervals (2-, 10-, 25-, 50-, and 100-year, 24-hour SCS Type II storms);
- The analysis will be modeled using PCSWMM software, with the downstream analysis point being the outfall to the drainage ditch along Sutton Avenue; and
- Existing and design alternatives will use current zoning densities for hydrologic calculations.

A4.30 PRELIMINARY ENGINEERING REPORT:

> FEE: $10,410

McAdams will compile results of the existing conditions analysis, alternatives analysis, known site constraints, and Opinion of Probable Construction Cost (OPCC) into a preliminary engineering report which will include the following:

- Narrative write-up summarizing methods, findings, and recommendations;
- Existing conditions hydrologic and hydraulic model results, including drainage area maps;
- Up to two (2) Primary Alternatives hydrologic and hydraulic model results;
- Up to two (2) conceptual level exhibits of the Primary Alternatives solutions;
- Up to two (2) preliminary OPCCs for recommended solutions; and
- Discussion of potential construction challenges.

Surveying Services

B2.40 TOPOGRAPHIC + LOCATION SURVEY:

> FEE: $13,000

Conduct a field survey of the site as shown in **Figure 2** below. Prepare a Topographic Survey Map in accordance with North Carolina Minimum Standards for Surveying. Contours will be mapped at 1-foot intervals. Location of individual trees is not included. Services included are:

- Drainage features survey shall include top of bank shots and channel shots with break lines to accurately depict drainage features within the survey limits;
- Drives- location, type and width;
- Buildings- location type and size;
- Parking lots- locations and layout;
- Landscape areas, woods lines,
- Signs- location, type and size;
- Pavement Markings;
- Fences- location, type and size; and
- Utilities (valves, manholes, meters and pedestals) - location and type. Locations of underground utilities will be based on above ground structures and Class B subsurface utility engineering (SUE) (if provided);
- Storm Drainage – location, size (with sizes labeled on each side of inlet), type, top, invert elevations, and inlet and outlet locations both inside and outside planimetric limits;
- Sanitary Sewer – location, size, type, top, and invert elevations; and
- Water – location of valves, meters, and hydrants.



Figure 2: Approximate boundary of survey location

B12.30 SUBSURFACE UTILITY (SUE) MARKINGS (LEVEL B):

FEE: $6,000

Field mark underground utilities approximately within the Sutton Avenue project area using electromagnetic equipment and mark them with spray paint. Structures that cannot be directly accessed are to be shown to the extent of available information, including utility maps. No guarantee is made that the underground utilities shown comprise all such utilities in the area, either in service or abandoned, nor that the underground utilities shown are in the exact location indicated, although they will be located as accurately as possible from information available. Physical location of the underground utilities utilizing Subsurface Utility Vacuum Extraction can be quoted if requested.

B12.35 SUE – LEVEL A (POT HOLING) – TEST HOLES – VACUUM EXCAVATION (OPTIONAL):

FEE: $9,000

Level A – Test Hole @ $1,500 / Per Hole-location – Up to six (6) locations

Level A SUE – We will perform pot hole investigations at up to six (6) locations to determine information such as size, depth, and material on critical utilities. All information will be incorporated into test hole forms and provided to the Client at the conclusion of the project. The number of test holes may be revised at Client's request upon the completion of the SUE Level B investigation. Depending on the horizontal spacing of the utilities, certain test holes may cover multiple utilities in the same hole and reduce the overall number of test holes needed to obtain

the vertical information needed. Additional charges for test holes over 6' deep will be $100 / foot. If during the excavation process, we encounter backfill material that is neither soil nor gravel we will first attempt to move the test hole to an acceptable location. If unacceptable backfill is encountered again, we will stop all work on that particular test hole and notify your designated representative of our findings.

Traffic control is not included with this scope, but McAdams can add services on a per day basis as needed for additional cost.

Design Drawing + Permitting Services

D4.10 CONSTRUCTION DRAWINGS:

> FEE: $45,800

The Engineer shall prepare and submit design packages at the 30%, 70%, and 100% levels. Submittals shall be provided in PDF format and include construction drawings, traffic control plans during construction, and updated engineers' cost estimates.

- **30% (Preliminary Design):** Submit initial plan / profile and modeling to establish alignment for review.
- **70% (Draft Final Design):** Submit construction plans and supporting documents at sufficient detail for Town, utility, and agency review.
- **100% (Final Design):** Submit sealed and signed plans, quantities, cost estimate, and complete digital design files (CAD and PDFs) suitable for bidding and construction.

All submittals shall progressively advance design completeness to identify stormwater systems, utility conflicts, easements, constructability, permitting needs, and project impacts. The task includes review meetings at each phase and written responses to Town comments. Final approval does not relieve the Engineer of responsibility for errors or omissions.

D14.10 TRAFFIC CONTROL PLAN:

> FEE: $8,500

McAdams will provide traffic control plans for the proposed design. This will include consideration for vehicle and pedestrian detours, road closures, and night-time construction as needed. The plans will conform to NCDOT standards and Manual on Uniform Traffic Control Devices (MUTCD).

E4.10 PERMITTING:

> Hourly: $16,300

McAdams will provide permitting services and coordination with the following impacted agencies throughout the course of the project in order to obtain applicable permits or approvals:

- Town of Black Mountain;
  - Development Services;
  - Historic Preservation Commission;

- NCDOT;
- Railroad (Norfolk Southern); and
- USACE.

L4.10 GEOTECHNICAL DESIGN + SUPPORT:

FEE: $17,250

McAdams' geotechnical subconsultant, S+ME, Inc. will provide the following scope for geotechnical services to help determine the subsurface conditions:

- Contact the North Carolina One Call Center (NC 811) to field mark member underground utilities near the soil test borings (this is required by law). We anticipate McAdams will perform SUE services and will identify private utilities not marked by NC 811 to us;
- Field layout of soil test boring locations;
- Subcontract a traffic control service to perform a lane closure during our work if drilling cannot be performed from the parking areas along Sutton Avenue;
- Mobilize a truck-, ATV- or track-mounted drill rig to the site;
- Conduct 2 to 3 soil test borings along the proposed repair area. The borings are planned to be drilled to 15 to 20 feet, or shallower auger refusal;
- Collect 2 bulk samples from the borings;
- Perform laboratory testing on selected soil samples consisting of grain size, moisture content, Atterberg limits, and standard Proctor tests;
- Attempt to measure groundwater levels at termination of each boring;
- Backfill borings with soil cuttings and install mechanical hole plugs to help reduce borehole settlement;
- Patch the surface of the borings in existing pavement areas with a cold-mix asphalt patch material;
- Prepare an engineering report summarizing our understanding of the project, exploration, subsurface conditions, analyses, and recommendations. Our report will address and/or include:
  - Boring location plan;
  - Boring logs;
  - Laboratory test data;
  - Description of the project background, existing site conditions, and area geology;
  - Presence, character, and consistency of existing fill and alluvial soils (if encountered) and residual soils;
  - Presence and depth of weathered rock, mass rock, and/or subsurface water in the borings (if encountered);
  - General suitability of existing subgrade soils for supporting the proposed storm lines;
  - General suitability of on-site soils for use as trench backfill;
  - General recommendations for trench backfill placement; and
  - General trench bedding / stabilization recommendations for the storm lines.

L4.20 NATIONWIDE / GENERAL CERTIFICATION PERMITTING FOR SURFACE WATER / WETLAND IMPACTS:

FEE: $5,040

McAdams' environmental subconsultant, NRC will prepare an Aquatic Resource Report using a data form and photographs provided by McAdams to obtain a delineation concurrence from the US Army Corps of Engineers,

which is suitable for permitting purposes. Guidance on avoiding and minimizing impacts, and on reducing mitigation costs, will be provided throughout the planning process. Once a replacement plan is finalized and impacts are sufficiently minimized, they will work with McAdams to prepare an application for a Nationwide Permit from the US Army Corps of Engineers and a Water Quality Certification from the NC Division of Water Resources.

This application requires assessments of the project's effect on federally protected species. USFWS's Information for Planning and Consultation online tool will be used to identify protected species and habitat that may be impacted and conduct a regulatory review of the project. NC Natural Heritage Data Explorer will be consulted to identify occurrences of natural resources located in the project area. NRC will rely on McAdams personnel to assist with habitat assessment for protected species. This information will be compiled and included with the application.

E4.15 SITE ASSESSMENT (SURFACE WATER / WETLAND DELINEATION):

> FEE: $1,520

McAdams will conduct detailed delineation of surface waters and wetlands present within the project area. This will be completed in general accordance with the 1987 Corps of Engineers Wetland Delineation Manual, the appropriate regional supplement, and the NC Division of Water Resources Methodology for Identification of Streams. Identified wetlands and streams within the project area will be evaluated using NC Wetland / Stream Assessment Methods to document the quality of these resources and support site plan permitting. Data forms and photographs will be sent to NRC to complete Nationwide / General Certification permitting for surface water / wetland impacts.

Assumptions:

- The Client will be responsible for notification of existing property owners and for assuring access to the site(s);
- Any previously completed environmental reports for the project site area (concurrence documents, Phase 1, Phase 2, or similar) will be provided by the Client to McAdams if necessary; and
- Specialized protected species surveys, archeological surveys, and specialized cultural resource surveys are not included in the scope of this Agreement. Should formal surveys become required, additional scope and fee will be provided at that time based on the identified species.

Bid + Construction Phase Services

H4.10 BID PHASE ASSISTANCE:

> FEE: $17,570

The Engineer shall provide the following bid phase services at the request of the Project Manager, including:

- In general, bid documents will include front ends, bid schedule of prices, general conditions (EJCDC or Town-selected format), technical specifications, and any relevant special project provisions for selected stormwater system replacement and construction drawings suitable for procurement for construction bid estimates from contractors;

- Attend and participate in up to one (1) pre-bid meeting. Engineer will help Town PM develop agenda, answer contractor questions regarding design plans and specifications, take notes and develop meeting minutes, and attend both in-office and follow-up field meeting at project site;
- Issue up to two (2) addenda; and
- Provide clarifications and information as requested by bidders that may arise after the pre-bid meeting.

H4.20 CONSTRUCTION PHASE ASSISTANCE:

> FEE: By hourly charges in accordance with the attached rate schedule, not to exceed $25,450

Provide limited construction oversight and management services for the duration of the construction contract for the project, including:

- Attendance at one (1) preconstruction meeting, either onsite, virtually, or at the Town's offices;
- Provide onsite, part time construction oversight and inspection assistance sufficient to certify that the work is in conformance with plans and specifications as well as to certify as-built construction documents at the end of the project. Assumes weekly site visits to observe the quality of construction for a duration of twenty-four (24) weeks, equating to twenty-four (24) site visits at three (3) hours each, equating to **72-hours** total of field observation time amongst consultant staff;
- Fulfill duties as Client's Representative per Article 10.01 of the EJCDC C-700 Standard General Contract;
- Review pertinent submittals and shop drawings;
- Assist with change order review, field directives, and RFI responses;
- Assist with review of contractor's pay applications;
- Participate, as needed, in Construction Progress Meetings; and
- Perform final walkthrough and generate punchlist for Contractor.

This scope assumes no more than six (6) months construction work. Should construction duration change considerably or be extended due to delays from the construction contractor, the Engineer may request additional services for any construction administration services and tasks, in accordance with the hourly rate schedule in effect at the time of the construction work. All additional service requests shall be made in coordination with the Project Manager.

I4.10 STORM DRAINAGE AS-BUILT CERTIFICATION:

> FEE: $3,560

The Engineer shall prepare the as-built submittal package utilizing the Contract Documents, post construction record survey, and Construction Contractor's final Record Documents. The Engineer shall sign and seal the as-built plans certifying conformance to the Contract Documentation, approved plans or any approved revisions, and all applicable permit / checklist requirements. The Engineer shall submit the as-built submittal to the Town in accordance with any checklist requirements.

- Coordination of an as-built post construction survey with the construction contractor and any impacted property owners after stormwater conveyance system has been installed and after first lift of asphalt. The as-

built survey shall be conducted and sealed by a licensed professional land surveyor providing services to the Engineer; and

- Prior to acceptance and use of the survey, the Engineer shall perform a field review of the survey to verify it is complete, accurate, and meets the requirements of the project scope and stormwater conveyance as-built submittal checklist. Engineer will manage the project in a manner so as to be responsive to the needs and schedule of the Town and the Engineer and assure the quality of the product.

Extra Services

J. ADDITIONAL SERVICES

When requested by the Client and confirmed by the Client and/or Firm in writing, the Firm shall perform services in addition to those described above in this Agreement and the Client shall compensate the Firm by hourly charges in accordance with the attached Rate Schedule.

K. EXPENSES + REIMBURSABLES

> FEE: Not to exceed $1,500

Valid expenses include reproduction, express delivery services, vehicular transportation at the rate established by the Internal Revenue Service current at the time the travel occurs, parking fees, permit fees, and postage fees with an anticipated total hourly not to exceed budget of **$1,500**. These expenses may be paid by the Town of Black Mountain in addition to the fees listed above. McAdams shall submit invoices for valid expenses with each payment request.

Fee Summary

Our proposed fee for the scope of services described herein is **$221,405**, excluding reimbursables, per the Professional Services Agreement. Please refer to the attached fee summary for more information.

Project Schedule

The Firm's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the project. The following is the expected schedule for completion of work on this project:

Schedule to be mutually agreed upon between Client and Firm.

The time limits and schedule set forth above have been agreed to by the Client and Firm, but the time limits and schedule shall be extended for (1) reasonable cause, or for (2) any delays associated with the Firm's work on the project that are not the sole responsibility of the Firm.

Client Responsibilities

Client shall be responsible for the following:

- Notification to proceed;
- Timely approval of sketches presented for Client approval;

- Payment of all application and permit fees;
- Payment of invoices in accordance with Item 1 of Terms and Conditions;
- Notification to Firm of any problems, in accordance with Item 2 of Terms and Conditions.

Exclusions

The following services are not included in this Agreement:

- Off-site utility extensions or roadway improvements (may be quoted if required);
- Structural design of retaining walls, headwalls or stormwater facilities or structures;
- Traffic Impact Analysis;
- Color graphics for meetings or marketing purposes (will be quoted if required);
- Permit application, plans review or re-review fees;
- Detailed landscape, hardscape, irrigation or lighting design (can be quoted separately);
- Revised directives from Client after design has begun;
- Acquisition of easements; preparation of off-site easements;
- Flood studies for FEMA;
- Court appearances for litigation, or preparation for same;
- Any costs incurred by Client or Contractor due to changes required by the approving authority or their inspectors after construction drawings have been approved.

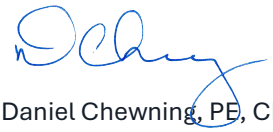
General Conditions

- The conditions set forth within the Professional Services Agreement dated January 4, 2024 shall apply to this Agreement.
- This proposal is valid for 30 days from the above date.
- Reimbursable expenses will be billed in accordance with the attached Rate Schedule.
- Client is responsible for all application and permit fees.

Conclusion

We appreciate this opportunity to propose our services. We are eager to pursue this project further and thank you for your consideration.

Sincerely,
McAdams



Daniel Chewning, PE, CFM | Project Manager, Water Resources
chewning@mcadamsco.com | 919. 361. 5000

DC/lf

Acceptance

By: _____ Date: _____

Name: _____

Title: _____

Accounting Information

Billing Contact: _____

Billing Contact Email Address: _____

Billing Contact Phone Number: _____

Billing Address: _____

_____

McADAMS

Fee Schedule

Downtown Stormwater Conveyance Phase 1 / Town of Black Mountain

Date	14-May-26		
Project #	TOB25001.15		

Task ID	Description	Fee	Fee Basis
A4.10	Project Administration	$17,735	Fixed Fee
A4.20	Hydrologic and Hydraulic Modeling	$24,270	Fixed Fee
A4.30	Preliminary Engineering Report	$10,410	Fixed Fee
B2.40	Topographic and Location Survey	$13,000	Fixed Fee
B12.30	Subsurface Utility (SUE) Markings (Level B)	$6,000	Fixed Fee
B12.35	SUE - Level A (Pot Holing) - Test Holes - Vacuum Excavation	$9,000	Fixed Fee
D4.10	Construction Drawings	$45,800	Fixed Fee
D14.10	Traffic Control Plan + Sequencing	$8,500	Fixed Fee
E4.10	Permitting	$16,300	Hourly Fee
L4.10	Geotechnical Design + Support	$17,250	Fixed Fee
L4.20	Nationwide/General Certification Permitting for Surface Water/Wetland Impacts	$5,040	Fixed Fee
E4.15	Site Assessment (Surface Water/Wetland Delineation)	$1,520	Fixed Fee
H4.10	Bid Phase Assistance	$17,570	Fixed Fee
H4.20	Construction Phase Assistance	$25,450	Hourly NTE Fee
I4.10	Storm Drainage As-Built Certification	$3,560	Fixed Fee
	Site Construction Drawing + Permitting Phase TOTAL	**$221,405**	
	Current Contract Total	**$221,405**	
	Running Contract Total	**$221,405**	

MCADAMS

Hourly Rate Schedule / 2026

1. SPECIFICATIONS FOR CONTRACT BY HOURLY CHARGE, THE FOLLOWING RATES APPLY

Role	Rate
General Counsel	$450 /hour
Chairman / President / Vice President	$300 - 450 /hour
Advisor	$260 - 325 /hour
Director / Group Manager / Practice Lead	$145 - 300 /hour
Technical Manager	$135 - 255 /hour
Project Manager	$130 - 275 /hour
Assistant Project Manager	$110 - 180 /hour
Landscape Architect	$155 - 215 /hour
Planner	$105 - 200 /hour
Project Engineer	$145 - 185 /hour
GIS Staff	$140 - 175 /hour
CAD Tech	$100 - 145 /hour
Graphics + Visualization	$140 - 150 /hour
Designer / Analyst / Design Tech	$105 - 180 /hour
Intern	$60 - 115 /hour
Administrative Services	$85 - 145 /hour
Construction Administrator / Observer	$120 - 230 /hour
Survey Technician	$105 - 125 /hour
2 Man Survey Crew	$165 - 185 /hour
3 Man Survey Crew	$185 - 210 /hour
UAS LiDAR Crew	$305 /hour
SUE Crew Member	$90 - 130 /hour

Hourly services are recorded and rounded to the nearest 1/4 hour.

2. THE FOLLOWING CHARGES APPLY ON ALL CONTRACTS, FOR COPIES OF PLANS AND SPECIFICATIONS SENT OUT OF THE ENGINEER'S OFFICE (TO CLIENT, CITY REGULATORY AGENCIES, BIDDERS, CONTRACTOR, OTHER CONSULTANTS, ETC.)

Item	Fee	Item	Fee	Item	Fee
Oversize + Color Rep.	$3.60 /each	Specifications	$0.12 /each	Mylar Sepia	$18.00 /each
Paper Reproductions	$2.40 /each	Oversize Mylar Sepia	$24.00 /each	Paper Sepia	$6.00 /each

3. THE FOLLOWING RATES ARE CHARGED IN ADDITION TO THE ABOVE FEES

Item	Fee
Fees Paid for Permits and Applications	Cost Plus 10%
Outside Photocopying, Travel, Overnight Delivery, Postage for Mass Mailings	Cost Plus 10%
Subcontractor Invoices	Cost Plus 12.5%

4. FEES ARE SUBJECT TO ADJUSTMENT AT THE BEGINNING OF EACH CALENDAR YEAR.

5. PROJECTS ARE BILLED ON A MONTHLY BASIS AND INVOICES ARE DUE UPON RECEIPT. INVOICES WHICH HAVE BEEN NOT BEEN PAID WITHIN 30 DAYS ARE PAST DUE AND SUBJECT TO FINANCE CHARGES OF 1.5% PER MONTH.

Client's Initials _____ Date _____

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Jacob Guiot, Recreation & Parks Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Recreation & Parks

TITLE OF ITEM: Consideration of FY26-27 Budget Ordinance Amendment to Appropriate Remaining Community Foundation of Western North Carolina Emergency Disaster Relief Fund Grant Funds

SUGGESTED MOTION(S):
Motion to adopt the budget ordinance amendment as presented.

SUMMARY:

The Recreation & Parks Department requests adoption of a budget ordinance amendment to appropriate remaining funds from the Community Foundation of Western North Carolina Emergency Disaster Relief Fund grant for use in FY 2026–2027. The grant was awarded and received in FY 2025–2026 for the project entitled "Recreation and Parks: Restoring and Strengthening the Dr. John Wilson Community Garden Post-Helene", with an original total of $50,000.00. Council approved this grant award fund ordinance at the June 9, 2025 meeting, Ordinance No: O-25-14. (Award letter attached)

Of that $50,000 awarded, $32,870.25 was used in FY 2025 - 2026, leaving an unexpended balance of $17,129.75 on June 30, 2026. The remaining grant funds were not carried forward into the FY 2026-2027 budget and must be appropriated for continued use of the funds for the approved project.

BUDGET IMPACT:

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

If no, describe how it will be funded. Adoption of the attached Budget Ordinance Amendment for FY26-27.

ATTACHMENTS:

1. O-26-XX_Budget Ordinance Amendment_Recognizing Remaining CFWNC Emergency Disaster Relief Grant Funds in FY26-27 Budget
2. CFWNC Award Letter 05.28.25

Council Member _____ made a motion to adopt the following ordinance. A vote of ____.

TOWN OF BLACK MOUNTAIN
AN ORDINANCE AMENDING THE FY 2026–2027 BUDGET ORDINANCE TO APPROPRIATE REMAINING COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA EMERGENCY DISASTER RELIEF FUND GRANT FUNDS

ORDINANCE NO. # O-26-XX

WHEREAS, the Town of Black Mountain was awarded a $50,000.00 grant from the Community Foundation of Western North Carolina Emergency Disaster Relief Fund for the project entitled "Recreation and Parks: Restoring and Strengthening the Dr. John Wilson Community Garden Post-Helene"; and

WHEREAS, the Town Council approved the grant award and associated budget ordinance, Ordinance No. O-25-14, at its June 9, 2025 meeting; and

WHEREAS, during FY 2025–2026, $32,870.25 of the grant funds were expended for the approved project, leaving an unexpended balance of **$17,129.75** as of June 30, 2026; and

WHEREAS, the remaining grant funds were not carried forward into the FY 2026–2027 budget and must be appropriated to allow the Recreation and Parks Department to continue use of the funds for the approved project; and

WHEREAS, it is necessary to amend the FY 2026–2027 Budget Ordinance to recognize and appropriate the remaining grant funds.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Black Mountain, North Carolina, that the FY 2026–2027 Budget Ordinance is hereby amended as follows:

Account Number	Account Description	Increase	Decrease
260-8807-48900	Fund Balance Appropriation	$17,129.75	
260-8807-57210	Capital Outlay Land Improvements	$17,129.75	

BE IT FURTHER ORDAINED, that copies of this budget ordinance amendment will be furnished to the Town Clerk, Budget Officer and Finance Director, and that the Budget Officers and/or Finance Director are hereby authorized to make the necessary budgetary entries and amendments to implement this ordinance.

ADOPTED, this the 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

ATTEST: _____
Wesley M. Barker, Town Clerk

Board of Directors

Joanne Badr
Chair

Francisco Castelblanco
Vice-Chair & Secretary

Heather P. Norton
Treasurer

Natalie N. Bailey
Carla Barnard
Milton Butterworth
Ellen O. Carr
Yolanda Fair
Michael Fields
Constance M. Haire
Himanshu Karvir
Matthew T. Lee
Harris M. Livingstain
Jean McLaughlin
Scott Peterson
J. Chris Smith
Sharon Fouts Taylor
Carter B. Webb
Juanita Wilson
Lynn M. Wilson

Elizabeth Brazas
President

May 28, 2025

Mr. Josh Harrold
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711

Dear Mr. Josh Harrold:

The Community Foundation of Western North Carolina (the "Foundation") is pleased to announce an Emergency and Disaster Response Fund Grant of **$50,000.00** to Town of Black Mountain ("Grantee") for the project entitled "Recreation and Parks: Restoring and Strengthening the Dr. John Wilson Community Garden Post-Helene" to be used during the period beginning on the date of this letter and ending on the date specified in the online grant system.

This grant is made subject to Grantee's acceptance of certain conditions, which are outlined below. **By accepting the payment, Grantee is agreeing to the terms of the grant**.

Conditions of the grant are as follows:

1) Grantee shall use this grant solely for the purpose described in the grant request. The funded project is subject to modification only with the Foundation's prior written approval. Grantee shall return to the Foundation any portion of the grant not used for the purpose for which it was approved.

2) Grantee agrees to participate in our grants monitoring process, which includes the completion of one or more online written reports. You will find the Foundation's grant reporting date(s) and form(s) in our online grant system.

3) Grantee agrees to maintain, and make available to the Foundation upon request, records of the expenditure of the grant and of Grantee's operations.

4) The Foundation reports grants to the public through its annual report and periodic listings of grants in various media. The Foundation strongly encourages Grantee organizations to make public announcements acknowledging the Foundation as grantor. See instructions for "Communicating Your Grant" on our website at https://cfwnc.org/grantseekers/communicating-your-grant. Please send a copy of any announcements and public references to the Foundation for our records.

5) The Foundation retains the right to revoke funding if the Foundation determines that Grantee has not performed in accordance with this agreement or if Grantee loses its tax-exempt status.

6) In accepting this grant, Grantee agrees to indemnify, defend, and hold harmless the Foundation from any liability, loss, cost, injury, damage, or other expense, including, without limitation, attorney and other professional fees, that may be incurred by the Foundation as a result of the Foundation's funding of the project or any action or non-action taken in connection with the project.

7) Grantee shall comply with the special conditions, if any, previously discussed with the Foundation and documented in the Foundation's online grant system.

8) If Grantee receives government funds that cover some or all the costs of the funded project, the Foundation reserves the right to request the return of that portion of the grant covered by the government funding.

The Community Foundation of Western North Carolina thanks you for your effort to assist our region's people and communities through this grant.

Sincerely,

Elizabeth K. Brazas
President

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Jacob Guiot, Recreation & Parks Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Consent Agenda	**DEPARTMENT:**	Recreation & Parks
TITLE OF ITEM:	Consideration of FY26-27 Budget Ordinance Amendment to Appropriate the Remaining Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund Grants		

SUGGESTED MOTION(S):
Motion to adopt the budget ordinance amendment as presented.

SUMMARY:

The Recreation & Parks Department requests adoption of a budget ordinance amendment to appropriate remaining funds from the Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund grant for use in FY 2026–2027. The grant was awarded and received in FY 2025–2026, with an original total of $20,000.00. Of that amount, $10,500.00 was used, leaving an unexpended balance of $9,500.00 at June 30, 2026, and these remaining funds were not carried forward into the FY 2026-2027 budget.

BUDGET IMPACT:

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

If no, describe how it will be funded. Budget Ordinance Amendment for FY26-27

ATTACHMENTS:

1. O-26-XX_Budget Ordinance Amendment_Recognizing SVMC and Ernie Dewick Endowment Fund Grant Funds in FY26-27 Budget

Council Member _____ made a motion to adopt the following ordinance. A vote of ____.

TOWN OF BLACK MOUNTAIN
AN ORDINANCE AMENDING THE FISCAL YEAR 2026–2027 BUDGET ORDINANCE TO APPROPRIATE THE REMAINING SWANNANOA VALLEY MEDICAL CENTER AND ERNIE DEWICK ENDOWMENT FUND GRANT FUNDS

ORDINANCE NO. # O-26-XX

WHEREAS, the Town of Black Mountain Recreation & Parks Department was awarded a grant from the Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund in the amount of $20,000.00 during Fiscal Year 2025–2026; and

WHEREAS, $10,500.00 of the grant award was expended during Fiscal Year 2025–2026, leaving an unexpended balance of **$9,500.00** as of June 30, 2026; and

WHEREAS, the remaining grant funds were not carried forward into the FY 2026–2027 budget and must be appropriated to allow the Recreation and Parks Department to continue use of the funds for the approved project; and

WHEREAS, it is necessary to amend the FY 2026–2027 Budget Ordinance to recognize and appropriate the remaining grant funds.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Black Mountain, North Carolina, that the Fiscal Year 2026–2027 Budget Ordinance is hereby amended as follows:

Account Number	Account Description	Increase	Decrease
100-0000-48900	Fund Balance Appropriation	**$9,500.00**	
100-4700-55029	Non-Governmental Grant Operating Expenses	**$9,500.00**	

BE IT FURTHER ORDAINED, that copies of this budget ordinance amendment will be furnished to the Town Clerk, Budget Officer and Finance Director, and that the Budget Officers and/or Finance Director are hereby authorized to make the necessary budgetary entries and amendments to implement this ordinance.

ADOPTED, this the 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

ATTEST: _____
Wesley M. Barker, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Michelle Kennedy, Planning Director	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Public Hearing	**DEPARTMENT:**	Planning & Development Services

TITLE OF ITEM: Public Hearing for Text Amendments to Chapter 6 Animals, Section 6-6 Public Nuisance, and Section 6-19 Civil Penalty to add language regarding bears

SUGGESTED MOTION(S):

I move to approve the proposed amendments to Chapter 6 Animals, Section 6-6 Public Nusiance and Section 6-19 Civil Penalty as presented.

SUMMARY:

The BearWise Advisory Group has drafted language to add the feeding of bears as a public nuisance and to add language about feeding birds that constitutes an attractant to civil penalties.

BUDGET IMPACT:

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

1. 26_10_12_bear_wise_amendments_staff_report
2. 26_10_12_ORDINANCE_ANIMALS_BEAR_WISE

TOWN OF BLACK MOUNTAIN
STAFF REPORT
For October 12, 2026, Public Hearing

REQUEST

Applicant:
Planning and Development staff are suggesting this text amendment.

Proposal:
Revise wording in two locations in Chapter 6 (Animals) of the Code of Ordinances in alignment with the standards of the BearWise® program.

Affected Ordinance Sections:
Section 6-6 (Public Nuisance) and Section 6-19 (Civil Penalty) of Chapter 6 (Animals) of the Code of Ordinances.

DETAILS OF PROPOSAL

The following is a summary of proposed amendments:
The Town's BearWise Advisory Group worked with Planning and Development and Sanitation staff to prepare the proposed amendments. Among the goals of the advisory group is to make real the following statement on the Town's ***Help Kee Bears Wild/Be BearWise!*** webpage:

> The Town of Black Mountain partners with NC Wildlife Resources Commission and BearWise® to provide helpful information to our residents and visitors about living responsibly alongside black bears in our community. Whether you are at home or exploring the outdoors, there are helpful tips to keep you safe and to prevent unnecessary encounters, or visits by the ever-curious black bears.

One of the members of the advisory group is a staffperson with the NC Wildlife Resources Commission, who advised that one of the two main requirements for the Town to achieve the status of being a BearWise® community is to revise *public nuisance* and *penalty* language in alignment with BearWise® standards.

The amendment to Section 6-6 (Public Nuisance) clarifies aspects of nuisances that exist in the context of threats to **public health**, to **property**, and to **wildlife**. The amendment also makes clear that maintaining a bird feeder or otherwise feeding birds is not prohibited. Rather, a violation exists only when such activity constitutes a demonstrated attractant of wildlife (such as bears). Also of note with the amendment: adding a definition of ***danger***.

The amendment to Section 6-19 (Civil Penalty) clarifies procedures for issuance of a notice. And it adds relevant violating situations to item ***(c)***, which is the item that details Level I, Level II, and Level III violations.

- To Level 1 is added: Feeding birds in a manner that constitutes an attractant and that is taking place subsequent to an order by the animal control officer or law enforcement officer to cease said activity.

- To Level III is added: Attracting of animals which threaten the public health, safety and welfare.

The City of Asheville and Buncombe County have amended their ordinances in such a manner.

From the NC Wildlife Resources Commission website:

> BearWise® is an Association of Fish & Wildlife Agencies program that provides consistent, science-based information for coexisting with black bears. It's goal to help people, nationwide, live responsibly with black bears. Black bears are found across North Carolina, making BearWise® a resource applicable statewide, from the mountains, through the piedmont region and coastal plain.

From the BearWise website:

> BearWise® was developed by state agency bear biologists who wanted to make sure that no matter where people lived, played or traveled, they got the same consistent message about coexisting with bears. Today BearWise® is managed by a team of North American bear biologists and communications professionals, and is a program of the Association of Fish and Wildlife Agencies.

ANALYSIS

CONSISTENCY WITH ADOPTED POLICY GUIDANCE:

The proposed amendments are consistent with the fact that the Town "partners with NC Wildlife Resources Commission and BearWise to provide helpful information to our residents and visitors about living responsibly alongside black bears in our community." (from the Town's ***Help Keep Bears Wild/Be BearWise!*** webpage)

In ***Elevate Black Mountain***, the Town's comprehensive plan, wildlife habitat is called out as something needing to be protected from negative impacts from development:

> Development will be designed to reduce potentially negative impacts on environmental features such as stream corridors, slopes, important viewsheds, wetlands, and wildlife habitat.
> (*Principle 8* in *Black Mountain Development Principles*)

REASONABLENESS/PUBLIC INTEREST:

It is reasonable and in the public interest for the Town to continue to work to achieve the status of being a BearWise® community, including strengthening Chapter 6 (Animals) to improve public health, property safety, and wildlife protection and health, in the context of all wildlife, including bears.

RECOMMENDATION

Staff recommends that Planning Board recommend to Council that Chapter 6 (Animals) be amended so as to make the chapter align with BearWise® program standards, specifically by updating the *public nuisance* and *civil penalty* sections.

REPORT PREPARATION

This report was prepared by Planning Department staff member Russell Cate, Planner/Zoning Administrator, and reviewed by Michelle Kennedy, Planning Director.

ORDINANCE #

AN ORDINANCE TO AMEND CHAPTER 6, ANIMALS, SECTION 6-6, PUBLIC NUISANCE, AND SECTION 6-19, CIVIL PENALTY

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January 2010; and

NOW, THEREFORE, BE IT RESOLVED THAT Chapter 6, Animals, Section 6-6, Public Nuisance, and Section 6-19, Civil Penalty, be amended to the following:

Chapter 6 – Animals

Sec.6-6. Public nuisance.

The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance ~~shall~~ **will** include, but not be limited to, the following:

(1) Unsightly litter, foul or offensive odors of any animal which remains upon or emanate from the property of the owner of such animal.

(2) The keeping of any animal which frequently is at large.

(3) ~~The keeping, possession or harboring of any animal which is dangerous to persons or property.~~ **The keeping, possession, harboring, feeding, or attracting of animals, wild, feral or domesticated, which threaten the public health, safety and welfare of the community in a manner including, but not limited to, attracting the presence of bears or wild animals that creates a danger to huma, wildlife, or domestic animals, or causes damage to other properties; provided, that nothing herein will be construed to prohibit keeping or maintaining a bird feeder, or from feeding birds, unless said activity constitutes an attractant and unless its cessation is ordered by the animal control officer or a law enforcement officer, pursuant to this chapter.**

a. For the purpose of this section, danger ~~shall~~ **will** mean the potential for human injury or death, the potential for increased risk of disease transmission between animal species and humans, or the increased potential for death or injury to the bears, livestock or companion animals.

(4) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, that this setback requirement ~~shall~~ **will** not be applicable where the placing of the cage or pens within the ten-foot area does

not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This subsection ~~shall~~ **will** not apply to the fencing of all or a major portion of a lot.

(5) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another.

(6) Maintaining animals in an unsanitary environment which results in offensive odors, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.

(7) Maintaining animals in such a manner and location that animal waste can accumulate and run off onto another's property or stream.

(8) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density or location of the animals on the property.

(9) Maintaining an animal that is diseased and dangerous to the public health through transmission of a zoonotic disease.

(10) Failing to confine a female dog or cat while in heat in a secure enclosure in such a manner that will prevent the animal from coming into contact with a male if its species or attract other animals; provided, however, that this section ~~shall~~ **will** not be construed to prohibit the intentional breeding of animals within a securely enclosed area on the premises of the owner of the animal which is being bred.

Sec. 6-19. Civil Penalty

(a) Except as otherwise provided herein, any person who violates any provision of this chapter ~~shall~~ **will** be subject to a civil penalty for each level of violation in accordance with subsection (c) of this section. Fines ~~shall~~ **will** be established by the county board of commissioners based on the nature of the violation and number of repeat offences. If the violation is continued, each day's violation ~~shall~~ **will** constate a separate offense. For the purposes of this section, repeat violations occur where the agency has issued a fine for the same offense within a 24-month period. Nothing in this section ~~shall~~ **will** prevent agency representatives from issuing warning violations.

(b) The animal owner or keeper ~~shall~~ **will** be issued a written notice of violation and penalty and ~~shall~~ **will** be required ~~to make payments to the animal shelter~~ **cease the violating condition and make payment** within ten days of receipt of notice. Notice of the civil penalty and violation ~~shall~~ **will** be delivered in person to the violator or mailed by certified mail, return-receipt requested, to the violator's last

known address. If the applicable civil penalty is not paid within the period prescribed, a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty.

(c) The severity of violations of the provisions of this chapter ~~shall~~ **will** be as follows:

(1) Violation of the following ~~shall~~ **will** constitute a level I violation:

a. Section 6-5(c)(1), “Animal bite.”
b. Section 6-6(1), “Unsightly litter, foul or offensive odors.”
c. Section 6-6(3), “Feeding birds in a manner that constitutes an attractant and that is taking place subsequent to an order by the animal control officer or a law enforcement officer to cease said activity.”
~~c.~~ **d.** Section 6-6 (4), “Keeping a cage too close to the property line.”
~~d.~~ **e.** Section 6-6(5), “Animal causing property damage.”
~~e.~~ **f.** Section 6-6(6), “Maintaining animals in an unsanitary environment.”
~~f.~~ **g.** Section 6-6(7), “Maintaining animal wastes.”
~~g.~~ **h.** Section 6-11, “Failure to dispose of a dead animal.”
~~h.~~ **i.** Section 6-15, “Animal at large.”

(2) Violation of the following ~~shall~~ **will** constitute a level II violation:

a. Section 6-6(2), “Animal frequently at large.”
b. Section 6-6(10), “Failure to confine a dog in heat.”
c. Section 6-7(a), “Failure to provide care of an animal.”
d. Section 6-7(e), (f), “Unsafe transport of animal.”
e. Section 6-7(g), “Unsafe confinement of an animal in a vehicle.”
f. Section 6-7(h), “Intentionally striking an animal with a motor vehicle.”
g. Section 6-7(i), “Failure to report striking an animal with a motor vehicle.”
h. Section 6-7(k), “Giving away an animal as an inducement/contest prize.”
i. Section 6-7(l), “Bird sanctuaries.”
j. Section 6-7(m), “Distribution of unweaned cats and dogs prohibited.”
k. Section 6-7(n), “Distribution of underage fowl prohibited.”
l. Section 6-7(o), “Dyeing of animals prohibited.”
m. Section 6-14, “Prohibition against giveaways in public places.”

(3) Violation of the following ~~shall~~ **will** constitute a level III violation:

a. Section 6-4(b), “Interference with an animal control officer.”
b. Section 6-4(c), “Concealment of an animal.”
c. Section 6-5(a), “Vaccination of dogs and cats required; vaccination of other pets.”
d. Section 6-5(b), “Vaccination tag and other certification.”
e. Section 6-6(3), “Keeping of a dangerous animal.”

f. Section 6-6(3), "Attracting of animals which threaten the public health, safety and welfare."

~~f.~~ g. Section 6-6(8), "Maintaining property in an offensive, annoying or dangerous manner."

~~g.~~ **h.** Section 6-6(9), "Maintaining diseased animals."

~~h.~~ **i.** Section 6-7(b), "Cruelty to animals."

~~i.~~ **j.** Section 6-7(c), "Promoting animal cruelty."

~~j.~~ **k.** Section 6-7(d), "Abandoning an animal."

~~k.~~ **l.** Section 6-7(j), "Animal used for unnatural behavior."

~~l.~~ **m.** Section 6-10, "Keeping a wild animal."

~~m.~~ **n.** Section 6-12, "Unaltered animal permit required."

~~n.~~ **o.** Section 6-16(d), "Failure to comply with a dangerous dog order."

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of October 2026.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Wesley M. Barker, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Anne Phillip, Stormwater Technician & Floodplain Administrator	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Unfinished Business	**DEPARTMENT:**	Stormwater

TITLE OF ITEM: Continued Public Hearing to Amend Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge

SUGGESTED MOTION(S):

I move that we approve the proposed amendments to Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge as presented and the proposed amendments are consistent with the comprehensive plan and are reasonable and in the public interest because they promote environmentally-sensitive and sustainable practices, promote natural approaches to address stormwater, and promote the public health, safety and welfare of the town.

SUMMARY:

Staff compared the current ordinance to the model ordinance and have proposed amendments that will make the ordinance easier to understand and follow. Additional definitions have been added and the illicit discharge section will move from the Environment Chapter of the Code of Ordinances to the Phase II Stormwater Ordinance. The Planning Board reviewed the proposed amendments at their July 27th, 2026 meeting, and recommended the proposed amendments be approved. Changes were made to the illicit discharge ordinance to add its own violation and remedies section. Town Council continued the public hearing held on September 14th, 2026 until October 12th to provide time for more public comment before taking action on this item.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. 26_09_14_ORDINANCE_PHASE_II_STORMWATER
2. Stormwater Ordinance Text Amendments - List of Proposed Updates

ORDINANCE #

AN ORDINANCE TO AMEND CHAPTER 8 LAND DEVELOPMENT AND ENVIRONMENTAL REGULATIONS, SECTION 8.2, THE PHASE II STORMWATER ORDINANCE AND CHAPTER 20 ENVIRONMENT, ARTICLE X, ILLICIT DISCHARGE

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January 2010; and

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 amendments are consistent with the comprehensive plan and reasonable and in the public interest because they promote environmentally-sensitive and sustainable practices, natural approaches to address stormwater, public health, safety and welfare; and

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 text amendments are consistent with the comprehensive plan and are reasonable and in the public interest because of the following findings:

- Promotes environmentally-sensitive and sustainable practices
- Promotes natural approaches to address stormwater
- Promotes public health, safety and welfare

WHEREAS, after notice duly given, a public hearing was held on September 14, 2026, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE BE IT RESOLVED that Chapter 8 Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance, of the Town of Black Mountain Land Use Code and Chapter 20 Environment, Article X, Illicit Discharge, of the Town of Black Mountain Code of Ordinances, be amended with the following (additions are underlined in bold and deletions are shown in red struck text):
CHAPTER 8 – LAND DEVELOPMENT AND ENVIRONMENTAL REGULATIONS

SECTION 8.2 THE PHASE II STORMWATER ORDINANCE

8.2.1 **Title.**

This ordinance will be officially known as "the stormwater ordinance". It is referred to herein as "this ordinance".

8.2.2 **Authority.**

The Town Council is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; Town of Black Mountain; NCGS 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; NCGS 160A-174, and NCGS 160D-185. This article is also authorized by NCGS 160D-925, stormwater control.

8.2.3 **Findings.**

It is hereby determined that:

(1) Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater discharge;

(2) These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

(3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and Federal Phase II Stormwater rules promulgated under it, as well as rules of the state environmental management commission promulgated in response to Federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this ordinance.

Therefore, the town establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

8.2.**4**~~1~~ Purpose.

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

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

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater SCMs that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;

(8) Coordinating site design plans that include open space and natural areas with the latest adopted Black Mountain Comprehensive Plan;

(9) Controlling illicit discharges into the municipal separate stormwater system;

(10) Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention.

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

8.2.**5**~~2~~ Applicability and jurisdiction of this ordinance.

A. General. Beginning with and subsequent to its effective date, this ordinance will be applicable to all development and redevelopment occurring within the corporate limits of the Town of Black Mountain, unless exempt pursuant to section 8.2.**5**~~2~~(C) of this section, exemptions.

B. Activity threshold requiring a stormwater permit. A stormwater permit is required for any development and redevelopment which disturbs one-half acre of land or more in all zoning districts, with the exception of the Central Business District where a stormwater permit is required for one acre or greater of disturbance.

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

C. Exemptions.

(1) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

(2) **Development or redevelopment that disturbs less than one-half acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.**

(~~2~~**3**) Development which disturbs less than one-half acre of land.

(~~3~~**4**) Pre-existing development or development activities that do not remove or decrease existing stormwater controls will not be required to install new or increased stormwater controls.

(~~4~~**5**) When a pre-existing development is redeveloped, either in whole or in part, increased stormwater controls will only be required according to the amount of disturbance proposed with the development.

D. **No development or redevelopment until compliance and permit. No development or redevelopment will occur except in compliance with the provisions of this ordinance or unless exempted. No development or redevelopment for which a permit is required pursuant to this ordinance will occur except in compliance with the provisions, conditions, and limitations of the permit.** ~~Reserved.~~

E. Map. The stormwater map will be kept on file by the stormwater administrator and will be updated to take into account changes in the land area covered by this ordinance and the geographic location of all structural SCMs permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or SCM will be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances. **This ordinance does not affect the legal requirements to obtain other permits which may be required by the division of water quality, the division of land resources, the local flood hazard prevention ordinance, zoning or building permits or any other state, federal or local government permit that may be required.**

8.2.**6**~~3~~ Interpretation.

A. Meaning and intent. All provisions, terms, phrases, and expressions contained in this ordinance will be construed according to the general and specific purposes set forth in section **8.2.4** ~~8.2.1~~, purpose and also defined in section **8.2.7** ~~8.2.28~~. If a different or more specific meaning is given for a term defined elsewhere in Town of Black Mountain Code of Ordinance, the meaning and application of the term in this ordinance will control for purposes of application of this ordinance.

B. Text controls in event of conflict. In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text will control

C. Authority for interpretation. The stormwater administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the stormwater administrator, who will respond in writing within 30 days. The stormwater administrator will keep on file a record of all written interpretations of this ordinance.

D. References to statutes, regulations, and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the design manual), or document, it will be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

E. Computation of time. The time in which an act is to be done will be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Black Mountain, the deadline or required date of action will be the next day that is not a Saturday, Sunday or holiday observed by the Town of Black Mountain. References to days are calendar days unless otherwise stated.

F. Delegation of authority. Any act authorized by this Ordinance to be carried out by the **Stormwater Administrator** ~~Assistant Town Manager~~ of Town of Black Mountain may be carried out by his or her designee as Stormwater Administrator.

8.2.7 Terms Defined.

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

Administrative decision: Decisions made in the implementation, administration, or enforcement of this ordinance that involve the determination of facts and the application of objective standards set forth in this ordinance, or other land development regulations as applicable.

Built-upon area (BUA): **The portion of a development project covered by impervious or partially impervious surfaces, including buildings; paved or gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. Built-upon area does not include wooden slatted decks, the water area of swimming pools, or pervious or partially pervious paving materials to the extent those materials absorb water or allow water to infiltrate through them.**

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

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

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

Disturbed area: All land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. "Disturbed area" does not include routine maintenance, but does include re-development and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered routine maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

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

***Division:* The Division of Water Quality in the North Carolina Department of Environmental Quality.**

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

***Impervious:* Not allowing fluid to pass through.**

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

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

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

~~have been used to adhere to these principles such as bio retention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.~~

1~~25~~-*year, 24-hour storm:* The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months ~~25 years~~ and with a duration of 24 hours ~~as defined by the National Weather Service~~.
***Owner:* The legal or beneficial owner of land, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.**

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

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

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

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

necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

8.2.**7**~~4~~ Design manual.

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

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

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

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

8.2.**8**~~5~~ Relationship to other laws, regulations and private agreements.

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

B. Private agreements. This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance will govern. Nothing in this ordinance will modify or repeal any

private covenant or deed restriction, but such covenant or restriction will not legitimize any failure to comply with this ordinance. In no case shall Town of Black Mountain be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

8.2.**9**~~6~~ Severability.

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

8.2.**10**~~7~~ Effective date and transitional provisions.

A. Effective date. This ordinance will take effect on **September 14, 2026** ~~May 12, 2025~~.

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

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

(1) For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

(2) For any subsequent phase of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

C. Violations continue. Any violation of provisions existing on the effective date of this ordinance for development that has disturbed one-half acre or more will continue to be a violation under this ordinance and be subject to penalties and

enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance.

SECTION 2: ADMINISTRATION AND PROCEDURES

8.2.**11**~~8~~ Review and decision-making entities.

A. Stormwater administrator.

(1) Designation. A stormwater administrator will be designated by the ~~assistant~~ town manager to administer and enforce this ordinance ~~in whole or in part, at the assistant town manager's discretion~~.

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

(1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.

(2) To make determinations and render interpretations of this ordinance.

(3) To enforce the provisions of this ordinance in accordance with its enforcement provisions.

(4) To maintain records, maps, forms and other official materials as related to the adoption, amendment, enforcement, and administration of this ordinance.

(5) To provide expertise and technical assistance to the Town of Black Mountain Town Council, upon request.

(6) Reserved.

(7) To take any other action necessary to administer the provisions of this ordinance.

8.2.**12**~~9~~ Review procedures.

A. Permit required. A stormwater permit is required for all development and redevelopment disturbing one-half acre or more of land unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section. A stormwater permit will govern the design, installation, and construction of stormwater

management and control practices on the site, including structural SCMs and elements of site design for stormwater management other than structural SCMs.

B. **Effect of permit. A stormwater permit will govern the design, installation, and construction of stormwater management and control practices on the site, including structural SCMs and elements of site design for stormwater management other than structural SCMs.**

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

C. ~~B.~~ Authority to file applications. All applications required pursuant to this Code will be submitted to the stormwater administrator by the land owner or the land owner's duly authorized agent.

D. ~~C.~~ Establishment of application requirements, schedule, and fees.

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

(**1**~~2~~) Application contents and form. The stormwater administrator will establish requirements for the content and form of all applications and will amend and update those requirements from time to time. At a minimum, the stormwater permit application will describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

(**2**~~3~~) Submission schedule. The stormwater administrator will establish a submission schedule for applications. The schedule will establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(**3**~~4~~) **Permit review fees. The town will establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application and may amend and update the fees and policies from time to time.** ~~Are set forth in the town's schedule of fees.~~

D. Submittal of complete application. Applications will be submitted to the stormwater administrator pursuant to the application submittal schedule in the form established by the stormwater administrator, along with the fee set forth in the town's schedule of fees If the stormwater administrator finds that an application is incomplete, the applicant will be notified of the deficient elements and will be provided with an opportunity to submit a complete application.

E. Review. ~~Within 15 working days~~ **After** ~~after~~ a complete application is submitted, the stormwater administrator will review the application and determine whether the application complies with the standards of this ordinance.

(1) Approval. If the stormwater administrator finds that the application complies with the standards of this ordinance, the stormwater administrator will approve the application. The stormwater administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

(2) Fails to comply. If the stormwater administrator finds that the application fails to comply with the standards of this ordinance, the stormwater administrator will notify the applicant and shall indicate how the application fails to comply. **The applicant will have an opportunity to submit a revised application.**

(3) Reserved.

(4) Revision and subsequent review. A complete revised application will be reviewed by the stormwater administrator ~~within 15 working days~~ after its re-submittal and will be approved, approved with conditions or disapproved.

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

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

8.2.**13**~~10~~ Applications **for approval**.

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

the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the requirements of the post-construction stormwater ordinance.

The following information should be included in the concept plan, which should be submitted in advance of the meeting:

(1) Existing conditions/proposed site plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) Natural resources inventory. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide opportunities or constraints for development and stormwater management.

(3) Stormwater management system concept plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

B. Stormwater management permit application. The stormwater management permit application will detail how post development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including section 8.2.**14**~~13~~, standards. All such plans will be prepared by a qualified registered North Carolina professional engineer or landscape architect, and the engineer or landscape architect will perform services only in their area of competence, and will verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient

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

The submittal will include all of the information required in the submittal checklist established by the stormwater administrator. Incomplete submittals will be treated pursuant to section 8.2.**12**~~9~~.D.

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

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

D. Other permits. No certificate of compliance or occupancy will be issued by the building inspector without final as-built plans and a final inspection and approval by the stormwater administrator, except where multiple units are served by the stormwater practice or facilities, in which case the building inspector may elect to withhold 50 percent of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

8.2.**14**~~11~~ Approvals.

A. Effect of approval. Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval will not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

B. Time limit/expiration. An approved plan will become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The stormwater administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

C. Permit renewal required for high-density projects. Post construction stormwater permits determined to be high-density are required to be renewed every eight years.

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

8.2.**15**~~12~~ Appeals.

A. *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the stormwater administrator, may file an appeal to the board of adjustment within 30 days **after receipt of said written decision, order, requirement or determination. Appeals shall proceed in conformance with NCGS 160D-405. The appeal shall be conducted as a quasi-judicial proceeding governed by NCGS 160D-406. Appeals from the board of adjustment shall be governed by NCGS 160D-1402.**

SECTION 3: STANDARDS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT

8.2.**16**~~13~~ General standards.

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

~~8.2.14 Development standards for all permitted projects.~~

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

A. **Stormwater treatment.**

(1) All stormwater treatment measures shall treat either:

(a) The runoff volume from the disturbed area calculated utilizing the one-year, one-hour design storm rainfall depth; or

(b) The difference in stormwater runoff volume between the pre- and post-development conditions for the one-year, 24-hour storm; whichever is greater.

(2) Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.

(3) All structural stormwater treatment systems used shall be designed to have a minimum of 85 percent average annual removal for total suspended solids (TSS).

~~Stormwater runoff from the development will be transported from the development by vegetated conveyances to the maximum extent practicable.~~

~~B. Project sites must employ low impact development (LID) practices to analyze the infiltration capacity of natural drainage of the site and develop a system of controls which mimic the existing, natural hydrology and which cumulatively capture and treat the runoff from the first inch of rainfall. LID practice may include any combination of site design techniques, and SCMs to store, infiltrate, evaporate, retain and detain runoff on the site to more closely replicate the pre-development runoff thereby limiting the increase in pollutant loads caused by development.~~

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

C. ~~D.~~ **The measures will control and treat runoff from the first inch of rain.** ~~The approval of the stormwater permit will require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.~~

D. ~~E.~~ **General engineering design criteria for all projects will be in accordance with 15A NCAC 2H.1008(c), as explained in the design manual.** ~~The measures will control and treat runoff from the first inch of rain. Runoff volume drawdown time will be a minimum of 48 hours, but not more than 120 hours.~~

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

E. ~~F.~~ **The approval of the stormwater permit will require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintain the site consistent with the approved project plans.** ~~General engineering design criteria for all projects will be in accordance with 15A NCAC 2H.1008(c), as explained in the design manual;~~

8.2.**17**~~15~~ Standards for stormwater control measures.

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

A. Evaluation according to contents of design manual. All stormwater control measures and stormwater treatment practices (also referred to as Stormwater Control Measures, or SCMs) required under this ordinance will be evaluated by the stormwater administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the design manual. The stormwater administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this ordinance. ~~It is presumed that all standards in the design manual will result in a minimum of 85 percent average annual removal of total suspended solids.~~

B. Determination of adequacy; presumptions and alternatives. Stormwater treatment practices that are designed, ~~and~~ constructed, and maintained in accordance with the criteria and specifications in the design manual will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The stormwater administrator may require the applicant to provide the documentation, calculations, and examples necessary for the stormwater administrator to determine whether such an affirmative showing is made.

C. I**n addition to the standards for handling stormwater set out in the design manual, development and redevelopment that drains in whole or part to trout waters (class TR) waters shall design and implement the best stormwater practices that do not result in a sustained increase in receiving water temperature, while still meeting the other requirements of this ordinance.** ~~Whenever LID practices are not achievable, or have not been demonstrated, the measures controlling the final runoff from the site shall control and treat the difference in stormwater runoff volume leaving the project site between pre- and post-development conditions for a minimum rate of ten year, 24-hour storm as determined by NOAA.~~

D. **Separation from seasonal high-water table. For SCMs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.** ~~Peak stormwater runoff rates will be controlled for~~

~~all development at or exceeding 24 percent built upon area or high-density projects as defined by this ordinance, for both LID and conventional approaches. The peak stormwater runoff release rates leaving the site during post-construction conditions will be equal to or less than the pre-development peak stormwater runoff release rates for the one-year frequency, 24-hour duration storm event as determined by NOAA data for Black Mountain. The emergency overflow and outlet works for any pond or wetland constructed as a stormwater SCM will be capable of safely passing a discharge with a minimum recurrence frequency of 50 years. For detention basins, the temporary storage capacity will be restored within 72 hours. Requirements of the Dam Safety Act will be met when applicable.~~

~~E. No single SCM will receive runoff from an area greater than three acres, however the total drainage area from SCMs used in a series may exceed this maximum.~~

~~F. In addition to the standards for handling stormwater set out in the design manual, development and redevelopment that drains in whole or part to trout waters (class TR) waters shall design and implement the best stormwater practices that do not result in a sustained increase in receiving water temperature, while still meeting the other requirements of this ordinance.~~

~~G. In addition to the standards for stormwater handling set out in the design manual, development and redevelopment that drains in whole or part to nutrient sensitive waters (class NSW) will design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this ordinance.~~

~~H. Separation from seasonal high-water table. For SCMs that require a separation from the seasonal high-water table, the separation will be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.~~

8.2.18 Dedication of SCMs, facilities and improvements.

Unless otherwise approved by town council, ownership and maintenance responsibility of any existing or future stormwater management facilities will remain with the owner of the property or a legally established property owner's association. Such facilities will meet all the requirements of this ordinance and include adequate and perpetual access and sufficient area, be easement or otherwise, for inspection and regular maintenance. An owner of an interest may assume responsibility together with the owner. In such case, the owner of an interest will be considered a responsible owner of an interest.

8.2.**19**~~16~~ Variances.

A. Any person may petition the Town of Black Mountain for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. The Town of Black Mountain may impose reasonable and appropriate

conditions and safeguards upon any variance it grants. To qualify for a variance, the petitioner will show all of the following:

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

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

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

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

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

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

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

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

~~2. The stormwater runoff from the entire impervious area of the development is collected, treated and discharged so that it pass~~

~~through a segment of the vegetative buffer and is managed so that it otherwise complies with all applicable state and federal stormwater management requirements.~~

C. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

D. Consideration of the variance by the board of adjustment will be conducted as a quasi-judicial proceeding governed by NCGS 160D-406. Appeals from the board of adjustment will be governed by NCGS 160D-1402.

8.2.**20**~~17~~ Reserved.

SECTION 4: MAINTENANCE

8.2.**21**18 General standards for maintenance of SCMS.

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

B. **Annual maintenance inspection and report. The person responsible for maintenance of any structure SCM installed pursuant to this ordinance will submit to the stormwater administrator an inspection report one of the following in 8.2.21(C). The inspection report will contain all of the following:**

(1) The name and address of the owner;

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

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

(4) The date the inspection was made;

(5) A statement that inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and

(6) The original signature and seal (if applicable) of the qualified person certified by the North Carolina cooperative extension service for stormwater treatment practice inspection and maintenance.

C. ~~B.~~ Required inspections. Post-construction permit holders will annually inspect their SCM(s) based on the minimum criteria for the SCM type, which is outlined in their Operations and Maintenance (O&M) Agreement. These inspections can be conducted by the property owner, if they are a qualified professional, or any other qualified professional they choose to retain. For the purposes of this text, a qualified professional is defined as a NC State University (NCSU) Cooperative Extension Certified Stormwater SCM Inspection and Maintenance Inspector, NC professional engineer or landscape architect. The inspection will be kept on site and made available for inspection by the town. These inspections maintain compliance between the property owner and the town's post-construction stormwater ordinance.

~~C. Town inspection of private SCMs. The town will inspect low-density permit SCMs once per NPDES permit cycle. The town will inspect high-density permit SCMs twice per NPDES permit cycle. These inspections will be conducted by town staff or a contractor on behalf of the town to maintain the town's compliance with the town's NPDES Small MS4 permit.~~

~~D. (1) If the town finds issues with the SCM, the town will require maintenance/improvements to be made following the O&M agreement.~~

~~(2) If the town finds issues and no O M is recorded for the property, the conditions can be deemed a public nuisance, and the town can require abatement following the nuisance ordinance.~~

8.2.**22**~~19~~ Operation and maintenance agreement.

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

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

A copy of the recorded maintenance agreement will be given to the stormwater administrator within 14 days following its recordation.

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

B. Special requirement for homeowners' and other associations. For all structural SCMs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement will include all of the following provisions:

(1) Acknowledgment that the association will continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs. If structural SCMs are not performing adequately or as intended or are not properly maintained, the Town of Black Mountain, in its sole discretion, may remedy the situation, and in such instances the Town of Black Mountain will be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural SCMs, provided that the Town of Black Mountain will first consent to the expenditure.

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

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

(4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Black Mountain depending on the design and materials of the stormwater control and management facility.

(5) Granting to the Town of Black Mountain a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs.

(6) Allowing the Town of Black Mountain to recover from the association and its member's any and all costs the Town of Black Mountain expends to maintain or repair the structural SCMs or to correct any operational deficiencies. Failure to pay the Town of Black Mountain all of its expended costs, after 45 days written notice, will constitute a breach of the agreement. In case of a deficiency, the Town of Black Mountain will thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees will be added to the recovery.

(7) A statement that this agreement will not obligate the Town of Black Mountain to maintain or repair any structural SCMs, and the Town of Black Mountain will not be liable to any person for the condition or operation of structural SCMs.

(8) A statement that this agreement will not in any way diminish, limit, or restrict the right of the Town of Black Mountain to enforce any of its ordinances as authorized by law.

(9) A provision indemnifying and holding harmless the Town of Black Mountain for any costs and injuries arising from or related to the structural SCM, unless the Town of Black Mountain has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

8.2.**23**~~20~~ Inspection program.

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

B. Town inspection of private SCMs. The town will inspect low-density permit SCMs once per NPDES permit cycle. The town will inspect high-density permit SCMs twice per NPDES permit cycle. These inspections will be conducted by town staff or a contractor on behalf of the town to maintain the town's compliance with the town's NPDES Small MS4 permit.

C. If the town finds issues with the SCM, the town will require maintenance/improvements to be made following the O&M agreement.

D. If the town finds issues and no O&M agreement is recorded for the property, the conditions can be deemed a public nuisance and the town can require abatement following the nuisance ordinance.

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

8.2.**24**~~21~~ Performance security for installation and maintenance.

A. May be required. The Town of Black Mountain may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural SCMs are:

(1) Installed by the permit holder as required by the approved stormwater management plan, and/or

(2) Maintained by the owner as required by the operation and maintenance agreement.

B. Amount.

(1) Installation. The amount of an installation performance security will be the total estimated construction cost of the SCMs approved under the permit, plus 25 percent.

(2) Maintenance. The amount of a maintenance performance security will be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the SCMs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

C. Uses of performance security.

(1) Forfeiture provisions. The performance security will contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

(2) Default. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structure SCM in accordance with the applicable permit or operation and maintenance agreement, the stormwater administrator will obtain and use all or any portion of the security to make the necessary improvements based on an engineering estimate. Such expenditure of funds will only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town of Black Mountain will not return any of the unused deposited cash funds or other security, which will be retained for maintenance.

(3) Costs in excess of performance security. If Town of Black Mountain takes action upon such failure by the applicant or owner, the Town of Black Mountain may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) Refund. Within 60 days of the final approval, the installation performance security will be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security unless a separate landscaping and ongoing maintenance security has been provided. Any such landscaping will be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping will be released.

8.2.**25**~~22~~ Notice to owners.

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

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

B. Signage. Where appropriate in the determination of the stormwater administrator to assure compliance with this ordinance, structural SCMs will be posted with a

conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign will be maintained so as to remain visible and legible.

8.2.**26**~~23~~ Records of installation and maintenance activities.

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

8.2.**27**~~24~~ Nuisance.

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

~~8.2.**28**25 Maintenance easement.~~

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

SECTION 5: ENFORCEMENT AND VIOLATIONS FOR COMPLIANCE AND PERMITS

8.2.**28**~~26~~ General **enforcement and violations**.

A. Authority to enforce. The provisions of this ordinance will be enforced by the stormwater administrator, or any authorized agent of Town of Black Mountain. Whenever this section refers to the stormwater administrator, it includes his or her designee as well as any authorized agent of Town of Black Mountain.

B. Violation unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and will constitute a violation of this ordinance.

~~C.~~ Each day a separate offense. Each day that a violation continues will constitute a separate and distinct violation or offense.

C. ~~D.~~ Responsible persons/entities. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this ordinance will be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs,

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

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

(1) Person maintaining condition resulting in or constituting violation. An architect, engineer, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

(2) Responsibility for land or use of land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

8.2.**29**~~27~~ Remedies and penalties.

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

A. Remedies.

(1) Withholding of certificate of occupancy. The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) Disapproval of subsequent permits and development approvals. As long as a violation of this ordinance continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the planning board may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the subdivision for the land on which the violation occurs.

(3) Injunction, abatements, etc. The stormwater administrator, with the written authorization of the town manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance will be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) Correction as public health nuisance, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits of the Town of Black Mountain G.S. 160A-193, the stormwater administrator, with the written authorization of the town manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop work order. The stormwater administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order will remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

B. Civil penalties. Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the stormwater administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town of Black Mountain is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

8.2.**30**~~28~~ **Enforcement procedures** ~~Procedures~~.

A. Initiation/complaint. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint will state fully the alleged violation and the basis thereof, and will be filed with the stormwater administrator, who will record the complaint. The complaint will be investigated promptly by the stormwater administrator.

B. Inspection. The stormwater administrator will have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

C. Notice of violation and order to correct. When the stormwater administrator finds that any building, structure, or land is in violation of this ordinance, the

stormwater administrator will notify, in writing, the property owner or other person violating this ordinance. The notification will indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation will also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

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

D. Extension of time. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the stormwater administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the stormwater administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The stormwater administrator may grant 60-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The stormwater administrator may grant an extension only by written notice of extension. The notice of extension will state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

E. Enforcement after time to correct. After the time has expired to correct a violation, including any extension(s) if authorized by the stormwater administrator, the stormwater administrator will determine if the violation is corrected. If the violation is not corrected, the stormwater administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

F. Emergency enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the stormwater administrator may order the immediate cessation of a violation. Any person so ordered will cease any violation immediately. The stormwater administrator may seek

immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 6: **ILLICIT DISCHARGE** ~~DEFINITIONS~~

8.2.31 ~~Sec. 20-390.~~ Purpose.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of illicit discharges into municipal stormwater systems. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

The ordinance seeks to meet the requirements for the town's National Pollution Discharge Elimination Systems (NPDES) permit.

8.2.32 ~~Sec. 20-391.~~ Applicability and jurisdiction.

The following article regarding illicit discharges and connections to public stormwater systems applies to all parcels in the incorporated areas of the Town of Black Mountain.

8.2.33 ~~Sec. 20-392.~~ Severability.

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

8.2.34 ~~Sec. 20-393.~~ Effective date.

This article will ~~shall~~ take effect on October 12, 2026 ~~December 1, 2019~~.

8.2.35 ~~Sec. 20-394.~~ Illicit discharges and connections.

(a) *Illicit discharges.*

(1) No person will ~~shall~~ cause or allow the direct-piping of untreated waste water, discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in a manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater. Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(2) Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

a. Water line flushing;

b. Landscape irrigation;

c. Diverted stream flows;

d. Rising ground waters;

e. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

f. Uncontaminated pumped ground water;

g. Discharges from potable water sources;

h. Foundation drains;

i. Air conditioning condensation;

j. Irrigation water;

k. Springs;

l. Water from crawl space pumps;

m. Footing drains;

n. Lawn watering;

o. Individual residential car washing;

p. Flows from riparian habitats and wetlands;

q. Dechlorinated swimming pool discharges;

r. Street wash water; and

s. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate stormwater sewer system shall be authorized by the Town of Black Mountain.

Prohibited substances include, but are not limited to, oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) *Illicit connections.* Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in the subsection above are unlawful.

(1) Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection will ~~shall~~ remove the connection within one

year following the effective date of this article. However, the one-year grace period will ~~shall~~ not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or

b. Was made in violation of any applicable regulation or ordinance, other than this section; the stormwater administrator will ~~shall~~ designate the time within which the connection shall be removed. In setting the time limit for compliance, the stormwater administrator will ~~shall~~ take into consideration:

1. The quantity and complexity of the work,

2. The consequence of the delay,

3. The potential harm to the environment, to the public health, and to public and private property, and

4. The cost of remedying the damage.

(c) *Spills.* Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the stormwater conveyance system, will ~~shall~~ be contained, controlled, collected, and properly disposed. All affected areas will ~~shall~~ be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the fire chief of the release or discharge, as well as making any required notifications under state and federal law. Notification will ~~shall~~ not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor will ~~shall~~ such notification relieve any person from other liability which may be imposed by state or other law.

8.2.36 ~~Sec. 20-395.~~ Violations and enforcement.

(a) Notice of Violation

When the Town Manager, Stormwater Administrator or authorized representative finds that a discharge or disposal violates any provisions of this Section, the Town Manager, Stormwater Administrator or authorized representative may issue a Notice of Violation. The Notice of Violation will identify the nature of the violation, amount of penalty (if applicable), set forth

the measures necessary to comply with this Section and provide a specific time period for compliance.

The Notice may be served by registered or certified mail, hand delivery or any other means determined to give actual notice. Refusal to accept the notice will not relieve the violator's obligation to comply with this Section or to pay such penalty. ~~*Violations continue*. Any violation of provisions existing on the effective date of this article will shall continue to be a violation under this article and be subject to penalties and enforcement under this article.~~

(b) Enforcement and Penalties.

Any person that violates the provisions of this Section is subject to a civil penalty. A civil penalty may be assessed from the date the violation first occurs.

1. **No penalty will be assessed until the person alleged to be in violation has been notified of the violation.**

2. **The maximum civil penalty for each violation of this Section is $5,000. Each day of violation will constitute a separate violation.**

3. **The Town Manager, Stormwater Administrator or authorized representative will determine the amount of the civil penalty assessment. In determining the amount of a civil penalty, all relevant mitigating and aggravating factors will be considered including, but not limited to the following:**
   a. **Degree and extent of harm caused by the violation.**
   b. **Cost of rectifying the damage.**
   c. **Whether the violator saved money through noncompliance.**
   d. **Whether the violator took reasonable measures to comply with this Ordinance.**
   e. **Whether the violator voluntarily took reasonable measures to restore any areas damaged by the violation.**
   f. **Whether the violation was committed willfully.**
   g. **Whether the violator reported the violation.**
   h. **Prior record of the violator in complying or failing to comply with this Code or any other local or State water pollution control rule or regulation.**

4. In addition to the civil penalty, penalties for costs to restore damaged property may be assessed based on restoration costs, which include but are not limited to, clean up costs, devaluation of the property, and value of animal and plant life damaged.

5. If an alleged violator does not pay a civil penalty assessed within 30 days after it is due, or does not appeal a civil penalty assessment as provided in Section 8.2.36 (C), Appeals Process, the Town Manager, Stormwater Administrator or authorized representative will request the Division of Water Quality to administer the penalty.

6. Violation of this Ordinance will not constitute a misdemeanor or infraction punishable under the criminal laws of North Carolina.

(c) Appeals Process

Any person who desires to appeal a demand for payment of the civil penalty will have thirty (30) days from said demand of payment to appeal in writing to the Town Manager, Stormwater Administrator or authorized representative.

1. The Town of Black Mountain will grant an appeal hearing before the Town Council within thirty (30) days after receipt of the appeal.
2. The Town of Black Mountain will provide the appellant a minimum of ten (10) days notice of the time and place of the hearing.
3. Thereafter, the appellant will have thirty (30) days to comply with the final decision of the appeal hearing.

~~*Notice of violation and enforcement.* Illicit discharges and illicit connections which exist within the Town of Black Mountain are hereby bound, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances will shall be abated in accordance with the procedures set forth in Chapter 1 of the Town of Black Mountain Land Use Code Chapter 20 of the Town of Black Mountain Code of Ordinances.~~

Part 2. Other Prohibited Waste

8.2.37 ~~Sec. 30-396.~~ Domestic animal waste.

(a) *Findings.* Pet waste is a serious water quality and public health issue for the Black Mountain community. Stormwater runoff washes bacteria, parasites, viruses, and nutrients from pet waste directly into our water ways. Poor water quality caused by pet waste can cause recreational swimming advisories, algal blooms, low dissolved oxygen levels, and impaired aquatic habitats.

Fecal coliform bacteria, found in the feces of warm-blooded animals, can indicate that water is unsafe for human contact like fishing, swimming, and drinking. Many diseases can be spread to humans from pet waste as well. A strong pet waste ordinance encourages citizens to be responsible for cleaning up their animal's waste in order to keep our waterways clean and safeguard public health.

(b) *Restrictions on domestic animal waste.*

(1) No person in custody or control of any animal will ~~shall~~ allow said animal to discharge any fecal matter on any public property unless the person in custody or control of said animal immediately and fully removes and disposes of the feces. Such public properties include, but are not limited to, streets, sidewalks, plazas, parks, rights-of-way, paths, public access areas, storm drains, ditches, streams, creeks, drainageways, other publicly owned property, and dedicated and officially accepted easements.

(2) It will ~~shall~~ be unlawful for the owner or custodian of any animal to take it off its own property without the means to properly and immediately remove and dispose of the animal's feces from any public property. "Means to properly and immediately remove and dispose of the animal's feces" will ~~shall~~ consist of having on one's person a device such as a plastic bag or other suitable "scooper," that can be used to fully clean up and contain the animal's waste until it can be deposited in a closed trash receptacle or other appropriate refuse container. Such a device must be produced and shown upon request to anyone authorized to enforce this article.

(3) This provision will ~~shall~~ not apply to a service animal accompanying a person with a disability or to an animal being used by law enforcement officers when doing so would prevent the officers from carrying out their official responsibilities.

(4) "Public nuisance" is defined to include "any animal which deposits feces on public property when the person owning, possessing, harboring, or having the care, charge, control, or custody of the animal fails to remove the feces so deposited.

8.2.38 ~~Sec. 20-397.~~ Debris in stormwater drainage system.

(a) *Findings.* Yard waste such as leaves, grass clippings, and soil/sediment can cause significant water quality problems when it is blown or directed into the stormwater system. Water quality problems include algal blooms and aquatic weed growth, oxygen depletion, fish kills, and impaired aquatic habitats. In addition, when the stormwater system is clogged with yard waste it can cause street and property flooding.

(b) *Restrictions on debris.*

(1) It will ~~shall~~ be unlawful for any person to rake, sweep, blow, wash, direct or place any debris, including but not limited to yard waste, grass clippings, leaves, sediment, trash, or debris of any kind into the storm drainage system of the town, including any streets, storm drains, ditches, swales, streams, lakes, culverts, rights-of-way, dedicated easements, or in any other area where it might impede the flow of water through the storm drainage system of the town. A violation of section 20-397 will ~~shall~~ constitute a civil penalty in the amount of $50.00 a day, with each day being a separate and distinct offense.

(2) It will ~~shall~~ be the duty of all property owners within the town to take adequate precautions on their property to ensure positive drainage on their property. Such drainage may be provided either through natural or artificial drains found to be adequate by the public works director or his/her designee. The owner will ~~shall~~ keep all ditches, drains, swales, and drainage routes free from obstructions which would impede the flow of water.

(3) When it ~~shall~~ appears to the public works director or his/her designee that drainage facilities or drainageways on any private property are, for any reason, inadequate and prior notice has not resulted in correction of the problem conditions, he will ~~shall~~ notify the owner of the property by registered or certified mail what corrective measures are required to render the drainage adequate. The notice to the owner will ~~shall~~ specify a reasonable time within which the corrective measures should be taken. Notice to the owner whose address is unknown will ~~shall~~ be given to the person in whose name the property is listed for taxation at the address shown on the tax records or to the agent of the owner whose name appears upon the tax records.

(4) If such corrective measures are not taken as required in the notice to the owner, the public works director or his/her designee, upon approval by the town council, may enter upon such premises and take the corrective measures required and the town council may assess the cost thereof against the owner of the property and such assessment shall become a lien on the property which will ~~shall~~ be collected as a money judgment.

(5) Any condition in violation of this section will ~~shall~~ constitute a public nuisance, subject to abatement as set forth in section 1.10.8 of the land use code.

(6) The following are preferred best management practices (BMPs) for yard waste and debris:

a. Prevent yard waste and debris from entering the street, storm drain, ditch, or other parts of the drainage system.

b. Direct or blow yard waste back onto a lawn or landscape area.

c. Sweep, rake, and/or collect yard waste instead of hosing/sweeping off driveways, sidewalks or other impervious surfaces.

d. Leave grass clippings on the lawn to decompose quickly and act as a natural fertilizer and soil conditioner ("grass cycle").

e. Compost yard debris for use in the lawn, garden, or landscape.

f. Collect and contain yard waste for town collection service according to specific yard waste collection policies. Do not use the town trash cart for yard waste or debris.

g. Collect and dispose of waste at a legally authorized yard waste collection facility.

~~8.2.29 Terms Defined.~~

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

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

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

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

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

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

~~*Division:* The Division of Water Quality in the Department.~~

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

~~*Impervious:* Not allowing fluid to pass through.~~

~~*Larger common plan of development or sale:* Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any~~

announcement or piece of documentation (including, but not limited to, a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including, but not limited to, boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

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

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

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

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

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

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

Stormwater control measure (formally known as best management practice): An alternation of land or physical device engineered and/or designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology

on a developed site; or to achieve any combination of these goals. Structural SCM includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural SCM" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

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

Chapter 20 - ENVIRONMENT

ARTICLE X. – ILLICIT DISCHARGE

Sec. 20-390. – Purpose.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of illicit discharges into municipal stormwater systems. It has been determined that property management of stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety and general welfare; and protect water and aquatic resources.

The ordinance seeks to meet the requirements for the town's National Pollution Discharge Elimination Systems (NPDES) permit.

Sec. 20-391. Applicability and jurisdiction.

The following article regarding illicit discharges and connections to public stormwater systems applies to all parcels in the incorporated areas of the Town of Black Mountain.

Sec. 20-392. – Severability.

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

Sec. 20-393. – Effective date.

This article shall take effect on December 1, 2019.

Sec. 20-394. Illicit discharges and connections.

(a) *Illicit discharges.*

(1) No person shall cause or allow the direct-piping of untreated waste water, discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in a manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater. Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(2) Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

a. Water line flushing;

b. Landscape irrigation;

c. Diverted stream flows;

d. Rising ground waters;

e. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

f. Uncontaminated pumped ground water;

g. Discharges from potable water sources;

h. Foundation drains;

i. Air conditioning condensation;

j. Irrigation water;

k. Springs;

l. Water from crawl space pumps;

m. Footing drains;

n. Lawn watering;

o. Individual residential car washing;

p. Flows from riparian habitats and wetlands;

q. Dechlorinated swimming pool discharges;

r. Street wash water; and

s. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate stormwater sewer system shall be authorized by the Town of Black Mountain.

(b) *Illicit connections.* Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in the subsection above are unlawful.

(1) Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this article. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or

b. Was made in violation of any applicable regulation or ordinance, other than this section; the stormwater administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the stormwater administrator shall take into consideration:

1. The quantity and complexity of the work,

2. The consequence of the delay,

3. The potential harm to the environment, to the public health, and to public and private property, and

4. The cost of remedying the damage.

(c) *Spills.* Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the fire chief of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which

may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

Sec. 20-395. – Violations and enforcement.

(a) *Violations continue.* Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article.

(b) *Notice of violation and enforcement.* Illicit discharges and illicit connections which exist within the Town of Black Mountain are hereby bound, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in Chapter 20 of the Town of Black Mountain Code of Ordinances.

Part 2. Other Prohibited Waste

Sec. 30-396. - Domestic animal waste.

(a) *Findings.* Pet waste is a serious water quality and public health issue for the Black Mountain community. Stormwater runoff washes bacteria, parasites, viruses, and nutrients from pet waste directly into our water ways. Poor water quality caused by pet waste can cause recreational swimming advisories, algal blooms, low dissolved oxygen levels, and impaired aquatic habitats. Fecal coliform bacteria, found in the feces of warm-blooded animals, can indicate that water is unsafe for human contact like fishing, swimming, and drinking. Many diseases can be spread to humans from pet waste as well. A strong pet waste ordinance encourages citizens to be responsible for cleaning up their animal's waste in order to keep our waterways clean and safeguard public health.

(b) *Restrictions on domestic animal waste.*

(1) No person in custody or control of any animal shall allow said animal to discharge any fecal matter on any public property unless the person in custody or control of said animal immediately and fully removes and disposes of the feces. Such public properties include, but are not limited to, streets, sidewalks, plazas, parks, rights-of-way, paths, public access areas, storm drains, ditches, streams, creeks, drainageways, other publicly owned property, and dedicated and officially accepted easements.

(2) It shall be unlawful for the owner or custodian of any animal to take it off its own property without the means to properly and immediately remove and dispose of the animal's feces from any public property. "Means to properly and immediately remove and dispose of the animal's feces" shall consist of having on one's person a device such as a plastic bag or other suitable "scooper," that can be used to fully clean up and contain the animal's waste until it can be deposited in a closed trash receptacle or other appropriate refuse container.

Such a device must be produced and shown upon request to anyone authorized to enforce this article.

(3) This provision shall not apply to a service animal accompanying a person with a disability or to an animal being used by law enforcement officers when doing so would prevent the officers from carrying out their official responsibilities.

(4) "Public nuisance" is defined to include "any animal which deposits feces on public property when the person owning, possessing, harboring, or having the care, charge, control, or custody of the animal fails to remove the feces so deposited.

Sec. 30-397. – Debris in stormwater drainage system.

(a) *Findings.* Yard waste such as leaves, grass clippings, and soil/sediment can cause significant water quality problems when it is blown or directed into the stormwater system. Water quality problems include algal blooms and aquatic weed growth, oxygen depletion, fish kills, and impaired aquatic habitats. In addition, when the stormwater system is clogged with yard waste it can cause street and property flooding.

(b) *Restrictions on debris.*

(1) It shall be unlawful for any person to rake, sweep, blow, wash, direct or place any debris, including but not limited to yard waste, grass clippings, leaves, sediment, trash, or debris of any kind into the storm drainage system of the town, including any streets, storm drains, ditches, swales, streams, lakes, culverts, rights-of-way, dedicated easements, or in any other area where it might impede the flow of water through the storm drainage system of the town. A violation of section 20-397 shall constitute a civil penalty in the amount of $50.00 a day, with each day being a separate and distinct offense.

(2) It shall be the duty of all property owners within the town to take adequate precautions on their property to ensure positive drainage on their property. Such drainage may be provided either through natural or artificial drains found to be adequate by the public works director or his/her designee. The owner shall keep all ditches, drains, swales, and drainage routes free from obstructions which would impede the flow of water.

(3) When it shall appear to the public works director or his/her designee that drainage facilities or drainageways on any private property are, for any reason, inadequate and prior notice has not resulted in correction of the problem conditions, he shall notify the owner of the property by registered or certified mail what corrective measures are required to render the drainage adequate. The notice to the owner shall specify a reasonable time within which the corrective measures should be taken. Notice to the owner whose address is unknown shall be given to the person in whose name the property is listed for taxation at the address shown on the tax records or to the agent of the owner whose name appears upon the tax records.

(4) If such corrective measures are not taken as required in the notice to the owner, the public works director or his/her designee, upon approval by the town council, may enter upon such premises and take the corrective measures required and the town council may assess the cost thereof against the owner of the property and such assessment shall become a lien on the property which shall be collected as a money judgment.

(5) Any condition in violation of this section shall constitute a public nuisance, subject to abatement as set forth in section 1.10.8 of the land use code.

(6) The following are preferred best management practices (BMPs) for yard waste and debris:

a. Prevent yard waste and debris from entering the street, storm drain, ditch, or other parts of the drainage system.

b. Direct or blow yard waste back onto a lawn or landscape area.

c. Sweep, rake, and/or collect yard waste instead of hosing/sweeping off driveways, sidewalks or other impervious surfaces.

d. Leave grass clippings on the lawn to decompose quickly and act as a natural fertilizer and soil conditioner ("grass cycle").

e. Compost yard debris for use in the lawn, garden, or landscape.

f. Collect and contain yard waste for town collection service according to specific yard waste collection policies. Do not use the town trash cart for yard waste or debris.

g. Collect and dispose of waste at a legally authorized yard waste collection facility.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of October 2026.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Wesley M. Barker, Town Clerk

2026 Stormwater Ordinance update for UDO

October 12, 2026

Reasons for update:

- Town is in the process of creating a UDO, which includes the Stormwater Ordinance.
- To clarify requirements of a stormwater permit - create a checklist for developers prior to their submission and make interpretation easier once they submit.
- Using the State Model Ordinance and referencing another local municipality's stormwater ordinance (Hendersonville) we have identified updates to clarify the requirements and make the submittal and review process easier.
- Planning Board has reviewed the draft and did not have any comments. They recommended moving the amendments forward to Council for approval.
- Illicit Discharge ordinance moved to within the Phase II Stormwater Ordinance.
- Changes were made to the illicit discharge ordinance to add its own violation and remedies section (8.2.36)

List of changes to bring into alignment with Model Ordinance as well as clarify requirements for development

1. Add from the Model Ordinance: Title, Authority, and Findings sections which are in the model but were not in our ordinance.
2. 8.2.4 Purpose- separate into General and Specific as in model ordinance, adding (b 1-10) Specific from model ordinance and removing statement about NPDES permit since is not in the model or Hendersonville's ordinance. ("The ordinance seeks to meet the requirements for the town's National Pollutant Discharge Elimination System (NPDES) Permit.")
3. 8.2.5 Applicability: add into draft as C2 language that development that is part of a larger common plan of development and less than half acre is not exempt. Add (c) from model. Add under Map a sentence found in Hendersonville's ordinance that makes clear that this ordinance does not affect the legal requirements to obtain other permits required by other agencies.
4. 8.2.6 F Delegation of Authority- instead of Assistant Town Manager, Stormwater Administrator is to carry out this ordinance.
5. Moved Terms Defined to earlier in the ordinance, 8.2.7, to have definitions earlier in the ordinance. The model has them at the end, but Hendersonville's ordinance has definitions earlier, which seemed to be more helpful.
    a. Added "Administrative Decision" from Hendersonville's ordinance.

   b. Replaced our definition of "disturbance of land" with "disturbed area" from Hendersonville's ordinance.
   c. Removed "Low-impact development" from our ordinance. This is not in either model or in Hendersonville's ordinance. Including the definition of LID in our stormwater ordinance has been confusing in discussions with developers. We are opting to remove this definition and use more clear language to state what is required of developments for stormwater management under this ordinance.
   d. Defined 1-year, 24-hour storm as in model ordinance.
6. 8.2.7 Design Manual- added C from Model.
7. 8.2.10 Effective Date would be October 12, 2026 if adopted at this meeting.
8. Section 2: 8.2.11 (A) updated to state that a stormwater administrator will be designated by the town manager, removes language about assistant town manager.
9. 8.2.12 Review Procedures- add (B) Effect of Permit from Model.
10. 8.2.12 (D) remove requirement for a pre-submittal consultation meeting which was not in Model, keep Application Contents and Form and Submission Schedule. Add Permit Review Fees from Model.
11. 8.2.12 (e) remove "within 15 working days" since a time limit is optional in the Model.
12. 8.2.12 E (2) add sentence from Model that the applicant will have an opportunity to submit a revised application.
13. 8.2.12 E (4) remove time limit since it is not required in the Model.
14. 8.2.13 (A) Model does not require a consultation meeting, but says that the stormwater administrator or developer may request a consultation.
15. 8.2.15 Appeals- add clarifying statements from Hendersonville ordinance.
16. 8.2.16 General Standards- remove language that says both high and low density projects will comply, since this language is not in the Model or Hendersonville ordinance.
17. 8.2.16 change General standards sentence "All proposed stormwater management design and methods submitted with a post-construction stormwater permit will meet the general standards of this section" to what Hendersonville has "All development and redevelopment to which this ordinance applies shall implement stormwater control measures that comply with each of the following standards."
18. 8.2.16 A remove last sentence since is not clear and is open to interpretation, also is not in the model.
19. 8.2.16 (old B), remove since this section has caused confusion between town and developers since the term LID cannot be defined specifically.
20. 8.2.16 C remove last sentence since this information is elsewhere in the ordinance.

21. 8.2.16 D remove the second and third sentences since this information is stated earlier.
22. 8.2.16 E remove last sentence since this information is elsewhere in the ordinance.
23. 8.2.17 removed opening sentence since it is not needed.
24. 8.2.17 A remove last sentence since it is stated elsewhere.
25. 8.2.17 remove old C since language about LID has been confusing in discussion with developers due to lack of specific definition.
26. 8.2.17 remove old D since the standards are expressed earlier. Can discuss whether Council would like to keep any of these standards for high density projects and include them in the general standards section.
27. 8.2.17 – added C and D from Model.
28. 8.2.17 removed item not found in Model or Hendersonville, which has been confusing during review process: No single SCM will receive runoff from an area greater than three acres.
29. 8.2.17 removed F, G, H since stated in new C and D. (no NSW in TOBM)
30. 8.2.18 Dedication of SCMs- this is to be added from the Model.
31. 8.2.19 B (2) 2- removed since was not in the Model. Added C and D from Hendersonville.
32. 8.2.21 (b) inserted from Hendersonville, we would like to remove the words "submit to the stormwater administrator" and replace with "annually complete"
33. 8.2.21 – moved old B, C, D to a point later in the ordinance for clarity.
34. 8.2.23 moved B,C and D into this section for clarity.
35. 8.2.25 (A) removed optional language to clarify that the O&M agreement will need to be recorded before CO. This is mentioned later in a more appropriate place.
36. 8.2.26 insert language from Model.
37. 8.2.27 align with Model language for Nuisance, took out optional Maintenance Easement language.
38. 8.2.30 Rename Enforcement Procedures for clarity.
39. Section 6: Illicit Discharge. We moved Illicit Discharge from the Environment Chapter of the Code of Ordinances to the end of the Stormwater Ordinance.
40. Currently Illicit Discharge Ordinance is Article X of Chapter 20 of the Code of Black Mountain. Current Violations and Enforcement Section, Sec. 20-395, states:
    (a) Violations continue. Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article.
    (b) Notice of violation and enforcement. Illicit discharges and illicit connections which exist within the Town of Black Mountain are hereby bound, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances

shall be abated in accordance with the procedures set forth in Chapter 20 of the Town of Black Mountain Code of Ordinances.

Ch 20 Article V Nuisances (Sec. 20-204 states that property owner must be notified of the violation in writing via first class mail. Sec. 20-205 discusses abatement after 20 days of sending the notice and not having it returned as undeliverable. Sec. 20-207 Penalty states Any person continuing to violate any provision or requirement of this article after notice of violation has been issued to him, or any person willfully failing, refusing, or neglecting to comply with any such provision or requirement shall, in addition to any other remedy, be issued a notice and citation for which a civil penalty of $50.00 shall be assessed for each offense, with each and every day of violation being a distinct and separate offense. This civil penalty shall be enforced by an action brought in the general courts of justice of the state by the zoning administrator or other town official charged with the duty of enforcing this article, and such enforcement shall be by civil action in the nature of a debt.

41. New Section 8.2.36 provides violations and remedies section more appropriate for the illicit discharge section.

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Larry Harris, Council Member	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	Unfinished Business	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Resolution Supporting Efforts to Pursue Funding for Town of Black Mountain Public Safety Facilities		

SUGGESTED MOTION(S):
Motion to approve the resolution as presented.

SUMMARY:

This resolution is intended to acknowledge ongoing efforts undertaken by the Town to investigate the condition of the Public Safety Building and the site around the facility, as well as express support of efforts to generate solutions to provide facilities supporting public safety service provision.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-XX_Resolution in Support of Efforts to Restore Public Safety Facilities

Council Member _____ made a motion to approve the following resolution. A vote of _-_ in favor.

A RESOLUTION SUPPORTING EFFORTS TO RESTORE TOWN OF BLACK MOUNTAIN PUBLIC SAFETY FACILITIES

RESOLUTION NO. R-26-XX

WHEREAS, the Town of Black Mountain Public Safety Building at 106 Montreat Rd. experienced damage as a result of flooding and unstable bearing soils beneath the building foundation; and

WHEREAS, this damage has caused structural instability to the building resulting in the building's partial condemnation and the evacuation of the fire, police, and EMS staff from the facility; and

WHEREAS, Town staff have worked closely with North Carolina Emergency Management, who have graciously provided temporary facilities to accommodate fire and police departments for the short-term but these facilities are insufficient for the Town's long-term needs; and

WHEREAS, the Town's request for assistance to FEMA Public Assistance for the Public Safety Building was initially denied and that determination is currently under appeal; and

WHEREAS, the Town has received funding from the Office of State Budget Management to address these public safety needs; and

WHEREAS, the State of North Carolina has donated land located on North Fork Road for the express purpose of housing police and fire facilities and this land is properly zoned for this use; and

WHEREAS, the Town has received many reports regarding the condition of the Public Safety Building, with recent assessments showing more deterioration of the building and the site conditions; and

WHEREAS, these reports include the following:

- A 1985 Nilsson & Watts engineering report establishing a baseline for the building
- A 2011 ECS Carolinas soil boring report showing groundwater at 9-10 feet below the slab in the three boring locations and soil conditions which did "not appear to present an immediate threat to the structural integrity of the building; however, given time the subsurface conditions aggravated by flooding and high water table events will likely continue to cause additional distress to the structure"
- A 2012 Medlock report showing minor additional deterioration over a 27-year period compared with the 1985 Nilsson & Watts report
- A 2019 Medlock engineering report that shows no noticeable changes occurred in the structural instability between 2012 and 2019
- A post-Helene 2024 Medlock report indicating the failure of the stormwater pipe running under the Northeast corner of the building, with the pipe showing cracks and leaks

- A 2026 McGill & Associates report which included, among other findings, signs of separation on both the North and East walls, differential settlement in the slab near the North wall, and substantial horizontal cracking along the brick exterior on the North wall
- A 2026 ESP Associates soil boring report with three cores taken – the two lower-level slab cores showing standing groundwater at 0.8 feet and 1.0 feet below the top of the slab and the upper-level core showing standing groundwater at 9.0 feet below the slab. This report also states in its conclusions that "based on the results of the exploratory hand auger borings [of which there were eight], the observed slab-on-grade and exterior veneer distress within the northeastern portion of the PSB [Public Safety Building] structure appears to be associated with variable near-surface low consistency fill soils and/or near surface water beneath portions of the building."

WHEREAS, the Town recognizes the need to maintain an active fire response facility in the downtown area while also recognizing a unique opportunity to utilize the North Fork location for police, EMS, and additional fire resources; and

WHEREAS, the Town has obtained a Preliminary Engineering Report, Site Plan, and Environmental Review which indicate that this is a feasible site for a combined public safety facility; and

WHEREAS, the Town, at the direction of North Carolina Emergency Management, has submitted a grant application to the Building Resilient Infrastructure and Communities (BRIC) program for the relocation of the combined public safety building to the North Fork Road location; and

WHEREAS, if awarded, the BRIC grant would cover the majority of construction costs for this facility.

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

1. The Town Council reiterates its support for efforts underway to explore avenues through which to adequately fund a public safety facility and its intention to accept funding through the BRIC program to build a public safety facility should the project be awarded funding.
2. The Town Council reiterates its support of Town staff exploring additional grant programs which could potentially fund the design and construction of a public safety facility.

Adopted this 12th day of October, 2026.

_____

C. Michael Sobol, Mayor

Attest:

_____
Wesley M. Barker, Town Clerk

TOWN OF BLACK MOUNTAIN

AGENDA ITEM SUMMARY

SUBMITTER:	Richard Hicks, Interim Town Manager	**MEETING DATE:**	October 12, 2026
AGENDA SECTION:	New Business	**DEPARTMENT:**	Administration
TITLE OF ITEM:	Resolution Authorizing the Temporary Closure and Use of Honeycutt Street for Temporary Fire and Police Facilities		

SUGGESTED MOTION(S):

Motion to approve the resolution as presented temporarily closing Honeycutt Street.

SUMMARY:

With the installation of the temporary facilities for Fire and Police on Honeycutt Street, the Council will need to adopt a resolution temporarily closing Honeycutt Street for a period of time. State Statutes give the Town the authority to close streets on a temporary basis.

BUDGET IMPACT:

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

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

ATTACHMENTS:

1. R-26-87_Resolution for Temporary Closure of Honeycutt Street for Temp Fire and Police Facilities_2026.10.12

Council Member _____ made a motion to approve the following resolution. A vote of ____.

RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE AND USE OF HONEYCUTT STREET FOR TEMPORARY FIRE AND POLICE FACILITIES

RESOLUTION NO. # R-26-XX

WHEREAS, the Town of Black Mountain ("Town") is responsible for providing essential municipal services, including fire protection, emergency response, law enforcement, and related public-safety services; and

WHEREAS, the Town requires temporary facilities to maintain and provide essential Fire and Police services during the period necessary to construct, repair, renovate, replace, or otherwise restore permanent municipal facilities; and

WHEREAS, the Town owns the property adjoining Honeycutt Street proposed for temporary use; and

WHEREAS, North Carolina General Statutes 160A-296 authorizes a municipality to exercise control over its public streets and expressly authorizes a municipality to close any street temporarily or permanently, subject to applicable law; and

WHEREAS, the Town Council has determined that the temporary closure and use of Honeycutt Street is necessary and appropriate to facilitate the continued operation of essential municipal Fire and Police services and to protect the health, safety, and welfare of the public; and

WHEREAS, the Town intends for the closure authorized by this Resolution to be temporary and does not intend by this action to permanently close, abandon, or discontinue Honeycutt Street as a public street; and

WHEREAS, the Town Council desires to establish the authority and conditions under which the temporary closure and use of Honeycutt Street shall occur.

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

Section 1. Temporary Closure Authorized
The Town Council hereby authorizes the temporary closure to vehicular and general public traffic on Honeycutt Street to accommodate the temporary municipal Fire and Police facilities.

Section 2. Temporary Use of Right-of-Way
The Town is authorized to use Honeycutt Street for the placement, installation, access, utility service, maintenance, and operation of temporary modular facilities and associated improvements necessary to provide municipal Police and Fire services.

Section 3. Temporary Nature of Closure
The closure authorized by the Resolution is intended to be temporary. Nothing in the Resolution shall constitute a permanent closing, abandonment, or discontinuance of Honeycutt Street. Upon completion of the need for the temporary facilities, the Town Manager shall take appropriate steps to reopen Honeycutt Street for public use, subject to any further action of the Town Council that may be required.

Section 4. Duration
The temporary closure shall remain in effect for the period reasonably necessary to accommodate the Town's temporary Fire and Police facilities and related operations. The Town Manager is authorized to establish the effective date of the closure and to administer the closure consistent with this Resolution. If circumstances require continuation of the temporary closure beyond the period originally anticipated by the Town, the Town Manager shall report the circumstances to the Town Council and may seek additional direction or authorization from the Council as appropriate.

Section 5. Traffic Control and Emergency Access
The Town Manager, Police Chief, Fire Chief and other appropriate Town officials are authorized to establish and implement appropriate barricades, signs, traffic control measures, emergency-access routes, and other measures necessary to protect public safety and maintain reasonable emergency access during the closure.

Section 6. Compliance With Applicable Requirements
The Town Manager is authorized and directed to coordinate with appropriate Town staff and governmental agencies to obtain any permits, approvals, inspections, utility authorizations, or other approvals that may be required by applicable Federal, State, or local law for the temporary facilities and their placement within the affected right-of-way.

Section 7. No Transfer of Ownership
Nothing in this Resolution shall be construed as conveying, abandoning, dedicating, or transferring any ownership interest in Honeycutt Street or the Town's right-of-way.

Section 8. Authority of Town Manager

The Town Manager is authorized to take all administrative actions reasonably necessary to implement this Resolution, including coordinating the placement and operation of the temporary facilities, establishing traffic control measures, coordinating utilities and site improvements, and communicating the temporary closure to the affected governmental agencies and the public.

Section 9. Effective Date
This Resolution shall become effective upon adoption.

ADOPTED this 12th day of October, 2026.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Wesley Barker, Town Clerk