

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – August 9, 2016

- I. CALL TO ORDER** – Mayor E. ‘Rick’ Miller called the regular meeting of the Beech Mountain Town Council to order at 4:03 p.m., Tuesday, August 9, 2016 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Rick Owen, Wendel Sauer, and Renee Castiglione. Town Attorney Stacy C. Eggers, IV. was present. Staff members present included Town Manager Ed Evans; Town Clerk Jennifer Broderick, Finance Officer Steve Smith, Town Planner James Scott, Public Utilities Director Robert Heaton, Police Chief Shawn Freeman, Fire Chief Bob Pudney, and Director of Tourism and Economic Development Kate Gavenus. Lauren Mills, Director of the Chamber of Commerce, was also present.
- II. Invocation** – Dewey ‘Cyclone’ Brett presented the invocation.
- III. Pledge of Allegiance** – All present joined in the Pledge of Allegiance to the flag.
- IV. Adoption of Agenda** – Mayor Miller stated that the agenda would be amended to remove § VIII. New Business item g. *Vote on Ordinance to Amend the Town of Beech Mountain Special Event Application Fee*. Councilman Sauer motioned to adopt the amended agenda. Councilwoman Castiglione seconded, the motion carried unanimously.
- V. Consent Agenda** – Mayor Miller opened the floor for Council to take action on the consent agenda. Vice Mayor Piquet motioned to approve the consent agenda. Councilman Sauer seconded the motion, the vote passed unanimously. The consent agenda was approved as follows with consent agenda item ‘c’ attached as Exhibit A, consent agenda item ‘d’ attached as Exhibit B, consent agenda item ‘e’ attached as Exhibit C, consent agenda item ‘f’ attached as Exhibit D, and consent agenda item ‘g’ attached as Exhibit E. Exhibits A thru E are incorporated by reference as if fully set out within these minutes.
- a. July 12, 2016 – Regular Meeting
 - b. July 12, 2016 – Closed Session
 - c. Resolution No. 2016-05: *‘Governing Body Resolution of the Town of Beech Mountain to Participate in the Municipal Insurance Trust of North Carolina’*
 - d. Mountain Community Resolution Authorizing Signatories
 - e. Commerce Fellows Community Development Block Grant Funding Approval and Agreement

- f. Resolution No. 2016-06: *'Authorized Signature Resolution Town of Beech Mountain Town Council Community Development Block Grant Commerce Fellows #04-D-2705'*
- g. Grant Management Assistance for Community Development Block Grant Commerce Fellow Grant

VI. Public Comment

Sandy Carr – Sandy Carr, of 505 Pine Ridge Road, thanked the Beech Mountain Volunteer Fire Department for their good work on the mountain. Mrs. Carr stated it was not too late for individuals to sign up for the 5k run that was being sponsored by the Beech Mountain Club.

VII. Public Hearing

- a. **Public Hearing on Ordinance to Regulate Lighting within the Town of Beech Mountain** – Vice Mayor Piquet motioned to open the public hearing. Councilman Sauer seconded the motion, the vote passed unanimously. Town Planner James Scott stated that the Town does not have a lot of regulations that deal with lighting. Mr. Scott stated that this has resulted in several disturbances over the years. The proposed ordinance changes deal with a concept called light trespass. This proposed language keeps the light focused on its intended purpose and assists with preventing new lighting from unintentionally lighting the sky and neighboring areas. Commercial Districts would also be exempt in that commercial businesses can have lighting that shines onto other commercial businesses but cannot have lighting that shines onto residential properties. The standard that is being used for maximum brightness in residential areas is 3,000 kelvin. Mr. Scott stated that existing lighting is also exempt from this ordinance. Wilson King, of 1525 Beech Mountain Parkway, stated that he liked this proposed language. The dark sky initiative is a worldwide movement. The assailant is artificial light. Light pollution disrupts migratory patterns for birds, pollenating habits of bees, insect eaters, bats, possums, and humans. Mr. King requested that Council continue to improve upon strengthening this ordinance. Vice Mayor Piquet motioned to close the public hearing. Councilman Sauer seconded the motion, the vote passed unanimously.

VIII. New Business

- a. **Water Plant Replacement Project Update** – Dale Schepers, Construction Administrator for West Consultants, provided a contract summary update for the Water Plant Replacement Project. Mr. Schepers stated that as of August 9, 2016 the Town is 324 days into the 510 contract days, representing 63% of work completion. Mr. Schepers reported to Council that work

progress continues to be on schedule with the quality of work acceptable. The engineer continues to review and approve various materials and equipment submittals for the project. The next construction progress meeting is scheduled for August 11, 2016 at 10:30 a.m. at Buckeye Recreation Center. Councilwoman Castiglione questioned the 63% work completion and whether or not this percentage reflected that the project was on schedule. Mr. Schepers reported that the project is on schedule.

- b. *Tourism Development Authority 20/20 Committee Vision Report*** – Director of Tourism and Economic Development Kate Gavenus informed Council that the 20/20 Committee Vision Report is the result of the initiative of a group of young people that have put their eyes on the mountain and created ideas for improvement. As part of the process the 20/20 Committee reviewed the Tourism Development Authority’s Plan and the Town’s Comprehensive Plan. They also had a meeting with a ‘Panel of Wisdom’ to gain insight from various leadership positions on the mountain. The ‘Panel of Wisdom’ was comprised of business owners, town employees, and citizens. Mrs. Gavenus introduced Chamber of Commerce Director Lauren Mills to provide the 20/20 Committee Vision Report to Council. Mrs. Mills stated that the first goal identified by the 20/20 Committee was the need for more ‘Transportation’ to include; taxi service, delivery service, public transportation, golf carts, fuel station, and pedestrian corridor. The second goal identified was ‘Childcare’. ‘Childcare’ opportunities identified were: private enterprise, levels of care, pulling resources/employees/interns from Appalachian State University and Lees McRae, and lastly identifying facilities. The identified third goal discussed by Mrs. Mills was ‘Business Co-Op’ to include; facility, bringing in new businesses, support for existing businesses, and developing an advisory board. The fourth goal discussed was ‘Spring and Summer Season Attractions’ to include; campground, summer concert series, and spring events. The fifth goal was ‘Service Organization’ to include; board and committees and clubs and organizations. Mrs. Gavenus stated that part of growing the vision for Beech Mountain was to repeat this process in 2020 so that the vision could continue to grow alongside the growing community. Councilwoman Castiglione stated that there were a lot of good ideas presented and questioned getting some of these ideas moving forward. Mrs. Gavenus stated that moving identified goals forward was the responsibility of the committees that worked to identify these goals. Mrs. Gavenus informed Council that the 20/20 Vision Committee had initially started with a group of 12 but shrunk to 9 dedicated individuals that live on this mountain. Members in the audience that were identified as participants on the 20/20 Vision Committee were Kate Prisco, of 301 Pinnacle Inn Road and Annie Accardi, of 402 Beech Mountain Parkway.

c. *Proclamation Honoring Vietnam War Era Veterans of Beech*

Mountain – Mayor Miller recommended that the reading of the Proclamation Honoring Vietnam War Era Veterans of Beech Mountain take place at the Veteran’s event. Council agreed. Vice Mayor Piquet motioned to approve the proclamation. Councilman Sauer seconded the motion, the vote passed unanimously. The Proclamation Honoring Vietnam War Era Veterans of Beech Mountain is attached as Exhibit F and incorporated by reference as if fully set out within these minutes. Manager Evans stated that there will be a Veterans Recognition event held Saturday, August 13, 2016 at Buckeye Recreation Center. The event will start at 3:00 p.m. The event will consist of light finger food and beverages and is open to all citizens to attend. Retired Marine Brigadier General Jim Walker will be the guest speaker.

d. *Mountain Heritage Trout Waters Program Designation* – Manager

Evans and Parks and Recreation Director Sean Royall met with Mountain Region Fishery Supervisor Doug Besler of the North Carolina Wildlife Resources Commission late July to discuss the Mountain Heritage Trout Waters Program. Staff believes that this would be an advantageous designation for the Town to have for their waters that qualify for this designation. Manager Evans discussed the purchase of fishing licenses. This program, if adopted by Council and approved by the North Carolina Wildlife Resources Commission would provide an opportunity for individuals to purchase a license online or over the phone. Individuals would be able to purchase a three day license for \$5. These licenses would be good for the portions of waterways dedicated as Mountain Heritage Trout Water Cities. Staff believes that this lower licensing fee will encourage more individuals to participate in fishing on the mountain. There is no paperwork involved for licensing, registration assigns a number for use. Manager Evans stated that Councils approval would permit staff to formally make the request for the Town to receive the Mountain Heritage Trout Waters designation. Councilwoman Castiglione stated that it is an upside for businesses to sell fishing equipment but questioned if it was going to hurt local businesses. Fred Pfohl, of 501 Beech Mountain Parkway, stated that Fred’s Mercantile sells fishing licenses and that as a business owner he backed this proposed licensing program. Pond Creek, Coffey Lake, Buckeye Creek, and Buckeye Lake would be included waterways that the Town was seeking this designation. Councilman Owen asked if this would require any further stringent regulation by the North Carolina Division of Water Quality or any other entity. Manager Evans stated no. Vice Mayor Piquet motioned to approve staff making a formal request to the North Carolina Wildlife Commission supporting the Town of Beech Mountain to be recognized as a Mountain Heritage Trout Waters City. Councilwoman Castiglione seconded the motion, the vote passed unanimously.

e. Request for Funds for Treating Diseased Beech Trees at Sunset Park –

Town Planner James Scott stated this mountain is named after the numerous Beech Tree Groves that grow on the mountain. These trees are being infected with Beech Bark Disease. This happens in two steps, starting with a beech scale that bores a hole into the tree then a fungus that invades these holes. Sunset Park has been selected by the Tree Committee due to the number of Beech Trees and the higher elevation to try a treatment for this disease. There is no guarantee that this proposed experiment will work, however with no treatment the trees are going to die. The Tree Committee is requesting \$500 for this treatment process to be initiated in this area. The treatment would need to be completed annually. The recommended trial time period is five years. Lear Powell, a local arborist, spoke stating that the Town currently holds the Tree City USA designation. Mr. Lear stated a big part of what we are doing right now is getting the word out that the Town has a problem with this disease. Right now we are in the beginning front. The next stage is the killing front, followed by the third level which is the replacement forest growing in. Councilwoman Castiglione agreed with Mr. Lear and the need to be proactive. Councilwoman Castiglione motioned to approve the expenditure of funds in the amount of \$500 for treating Beech Trees at Sunset Park. Vice Mayor Piquet seconded the motion, the vote passed unanimously.

f. Commerce Fellows Community Development Block Grant Awarded –

Manager Ed Evans informed Council that the Town had been awarded the 2016-2017 Commerce Fellows Community Development Block Grant in the amount of \$50,000. This is a multi-governmental reimbursement educational grant that will provide opportunities for staff to enrich their knowledge base. This educational grant will provide opportunities for employees from Watauga County, Boone, Blowing Rock, and Beech Mountain. Manager Evans stated that the grant monies could be used for tuition, lodging, food, and travel. One of the courses that received approval for funding was the Municipal and County Administrator course offered through the University of North Carolina School of Government in Chapel Hill. Manager Evans stated that he was requesting administrative leave from Council to attend this course. The course canvases a period of seven months, with each month having a consecutive three and a half day class session. All class sessions begin with a half day on Tuesday and continue with full days thru Friday during the months of September, October, November, January, February, March, and April. Manager Evans requested that Council grant administrative leave for the purpose of attending this course. Manager Evans stated that he has already spoken with the instructor of the course and bowed out of the Tuesday classes that conflicted with Councils regular meeting schedule. Councilwoman Castiglione

motioned to approve administrative leave for Manager Evans. Vice Mayor Piquet seconded the motion, the motion carried unanimously.

g. Public Hearing Request to Amend the Town of Beech Mountain Tree Ordinance Regarding Removal of Debris – Town Planner James Scott

stated that this proposal involves a mandated cleanup any time a tree is cut or trimmed. Upon the recommendation of Council a joint meeting was held between the Tree Committee and the Planning Board Committee concerning the proposed language in the ordinance amendment now before Council. The discussion dealt with visibility from the road and distance from the curbside. The conclusion of the joint meeting was to remove all tree generated debris. The two reasons provided were aesthetics and fire hazard issues. The location of the tree would not matter. All cut trees would be required to be properly disposed. Staff is requesting that Council set a public hearing. Vice Mayor Piquet motioned to approve a public hearing to be scheduled for Councils next regularly scheduled meeting. Councilwoman Castiglione seconded the motion, the motion carried unanimously.

h. Public Hearing Request to Amend the Town of Beech Mountain Water and Sewer Use Ordinance Regarding the Homeowner Cut Off Requirement – Mayor Miller stated that this is something the Town has

discussed before and is revisiting. Manager Evans stated that Council had approved regulations requiring the installation of a homeowner cut off valve for every water meter in the Town. The adopted legislation required homeowners to use their homeowner cut off valve during what are commonly known as the winter months on Beech Mountain when away from the mountain for a period of time that exceeded three days. Since the enactment of this regulatory legislation staff has determined that the initial regulation should be strengthened to assist in further conserving water while assisting with decreasing the likelihood of undesirable hardships that coincide with increased utility bills due to excessive water leaks by expanding the homeowner shut off requirement to encompass the full calendar year. Staff is requesting that Council set a public hearing. Vice Mayor Piquet motioned to approve staff scheduling a public hearing for Councils next regularly scheduled meeting. Councilwoman Castiglione seconded the motion, the motion carried unanimously. Councilman Sauer asked if property owners could be notified through their utility bill should this amendment pass. Staff confirmed in the affirmative.

i. Façade Enhancement and Flag Poles – Manager Evans stated that at the regular July meeting Council directed staff to proceed with requesting a full rendering of the proposed Façade Enhancement and Flag Poles Project to include; three new flag poles and the façade enhancements to each of the entry way locations on the front of Town Hall.

Note: Councilwoman Castiglione stepped out of the meeting at 5:14 p.m., returning back to the meeting at 5:15 p.m.

Manager Evans listed the items before Council for the proposed project; a photo rendering of the Façade Enhancement and Flag Poles Project, Associated Constructions Trades Scope of Work, façade enhancement changes, siding repair, a drawing design for placement of three flag poles, and a rendering of the façade enhancements. The project will also take care of parts of the building that have water issues. The initial investment is \$23,370. Mayor Miller asked how much money the Tourism Development Authority is providing for the project. Manager Evans stated that the \$3,500 was to go towards flag poles. Vice Mayor Piquet motioned to authorize staff to complete the Façade Enhancement and Flag Poles Project at a cost not to exceed \$28,500 and that Council waive the request for proposal process since the project is under the \$30,000 threshold. Councilman Sauer seconded the motion, the vote carried unanimously.

j. Spruce Hollow to Beech Mountain Parkway Bid Approval – Manager Evans stated that the scope of the Spruce Hollow to Beech Mountain Parkway Project has increased to include fire hydrants and service lines. Manager Evans stated that staff is recommending Council award the contract to M&M Construction of Banner Elk, Inc. in the amount of \$1,546,522.50, subsequent to review and approval of the contract by the Town Attorney. Mayor Miller asked what the tentative start and finish timeframe was for this project. Public Utilities Director Robert Heaton stated that a start date of September would still mean an ending date around Thanksgiving of 2017. This date could potentially be missed though due to weather. If the project does not start in September of this year then the project will not be able to be completed by the end of next year. Mr. Heaton explained that when revisiting the project staff determined that services and fire hydrants should be tied into the project. This project will be a very beneficial project for the Town's utility system. Mayor Miller asked that staff explain where the money was coming from. Manager Evans stated that there is approximately \$4,000,000 in reserve and that funding for this project will come from this money. Councilman Owen motioned to award the contract to M&M Construction of Banner Elk, Inc. in the amount of \$1,546,522.50 subsequent to review and approval of the contract by the Town Attorney. Vice Mayor Piquet seconded the motion. Mr. Heaton

Note: Councilman Sauer left the council meeting at 5:26 p.m., returning at 5:27 p.m.

informed Council that the cost of the project had also increased due to the increase cost of pipe from when the Rothrock Study was performed. Mayor Miller asked about the existing utility line. Mr. Heaton stated that that this

utility line would be abandoned. Hearing no more discussion Mayor Miller called for the vote. The vote passed unanimously.

IX. Old Business

a. Vote on Ordinance to Regulate Lighting within the Town of Beech Mountain – Mayor Miller opened the floor for discussion. Councilwoman Castiglione motioned to approve the ordinance to regulate lighting within the Town of Beech Mountain. Vice Mayor Piquet seconded the motion, the vote passed unanimously. Ordinance No. 2016-09: *‘An Ordinance to Regulate Lighting within the Town of Beech Mountain’* is attached as Exhibit G and incorporated by reference as if fully set out within these minutes.

X. Town Manager and Staff Reports

Schedule Workshop – Manager Evans requested Council consider scheduling a date to hold a Water Plan Workshop meeting. Manager Evans stated that the purpose of this workshop would be to make funding plans for the future. Manager Evans informed Council that Dale Schepers, Construction Administrator for West Consultants, and Public Utilities Director Robert Heaton along with himself have met to discuss future utility planning. Manager Evans suggested using the Foscoe Community Center for the meeting. Council determined they would set a meeting date at a later time.

Haloacetic Acids – Manager Evans stated that the Town has Haloacetic Acid in the water, which is a byproduct of chlorinating the drinking water. The warmer it gets the more the Haloacetic Acids become an issue. Public Utilities Director Robert Heaton informed Council that the Town will be sending out mandated notifications with the next utility billing to notify the public of the Haloacetic Acids (HAA’s). Mr. Heaton reported that the new Water Plant that is being put on line will assist with remedying this situation. Mr. Heaton explained that the limit for Haloacetic Acids is .060 parts of billion and that the Town’s level had been reported at .065 parts of billion. Mayor Miller stated that an individual would have to have significant exposure on a daily basis for many years for issues to arise.

Advanced Use of Force Training – Manager Evans informed Council that the Beech Mountain Police Department and Banner Elk Police Department are participating in joint training. Police Chief Shawn Freeman has extended this opportunity to Council Members to attend. The training is scheduled to be held twice tomorrow, August 10, 2016, at the Banner Elk Police Department. The first training session is 9:00 a.m. to 12:00 p.m., the second training session is 1:00 p.m. to 3:00 p.m.

High Country Council of Government 42nd Annual Banquet – Manager Evans informed Council that the High Country Council of Government 42nd Annual Banquet is being held Friday, September 9, 2016 at 6:00 p.m. at Linville Ridge. Reservations for Council and a guest should be made with the Town Clerk Jennifer Broderick by Friday, August 19, 2016.

North Carolina League of Municipalities Annual Conference – Manager Evans reported that advanced registration has been completed for Mayor Miller, Councilman Sauer, and Councilwoman Castiglione to attend the North Carolina League of Municipalities Annual Conference. These conference participants will be attending the conference Sunday, October 23, 2016 through Tuesday, October 25, 2016. The conference is being held at the Raleigh Convention Center.

Coffee with a Cop – Manager Evans stated that the last Coffee with a Cop session was a success.

The Club's 5K Run – Manager Evans stated that The Club was putting on a 5k Run over the weekend and encouraged those who have not signed up to do so.

Buckeye Recreation Center – Manager Evans informed Council that Buckeye Recreation Center was staying extremely busy.

XI. Town Council Comments

North Carolina Department of Transportation Signs – Mayor Miller asked when the North Carolina Department of Transportation signs are being removed. Manager Evans stated that they cannot be removed until the Department of Transportation receives the final sign off. Mike Pettyjohn is the Department of Transportation engineer on the project. Attorney Eggers informed Council that James Palermo is the Department of Transportation Board Member for this area.

Brush Pick-Ups – Councilwoman Castiglione suggested that the brush pickup regulations be placed in the Town's newsletter. Staff indicated they would take care of informing the public about this service.

Proclamation Honoring Veteran War Hero Bill 'Waldo' Watson – Mayor Miller informed those in attendance that there is a proclamation for Waldo that would be shared for signature prior to Waldo receiving it.

20/20 Vision – Mayor Miller stated that the 20/20 Vision was great. Mayor Miller identified himself and two other individuals present; Fred Pfohl and Tim

Holland, as having been members of the Optimist Club many years ago. Mayor Miller stated that the Optimist Club has been disbanded for some time.

Mayor Miller stated that Council would take a short break at 5:46 p.m.

XII. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters – At 5:57 p.m., Councilwoman Castiglione moved to enter closed session pursuant to N.C. Gen. Stat. §143-318.11 (a)(3) for the purpose of discussing attorney-client matters, including *Frank Steele and Genesis Wildlife Sanctuary, Inc. vs. Town of Beech Mountain*, *Town of Beech Mountain v. Genesis Wildlife Sanctuary, Inc.*, and *Town of Beech Mountain v. Milligan*. The motion was seconded by Councilman Sauer and passed unanimously. Upon motion by Councilman Sauer, seconded by Councilwoman Castiglione, the Council voted unanimously to exit closed session at 6:06 p.m.

XIII. Other Business

Water and Sewer Planning Workshop – After much discussion Mayor Miller announced that Council would hold a Water and Sewer Planning Workshop meeting on Monday, September 19, 2016 at 1:00 p.m. The meeting would be held at the Foscoe Grandfather Community Center located at 233 Park Road, Banner Elk, NC 28604. Staff was to let Council know if this meeting location was not available for this date and time.

XIV. Adjourn – At 6:12 p.m., Vice Mayor Paul Piquet moved to adjourn, which was seconded by Councilman Sauer. The motion passed unanimously.

Minutes approved by Town Council on September 13, 2016.

E. 'Rick' Miller, Mayor

ATTEST:

Jennifer Broderick, MMC
Town Clerk

August 9, 2016

**ATTACHMENT(S)
TO
MINUTES**

EXHIBIT A – Resolution No. 2016-05: *'Governing Body Resolution of the Town of Beech Mountain to Participate in the Municipal Insurance Trust of North Carolina'*

EXHIBIT B – Mountain Community Resolution Authorizing Signatories

EXHIBIT C – Commerce Fellows Community Development Block Grant Funding Approval and Agreement

EXHIBIT D – Resolution No. 2016-06 *'Authorized Signature Resolution Town of Beech Mountain Council Community Development Block Grant Commerce Fellows #04-D-2705'*

EXHIBIT E – Grant Management Assistance for Community Development Block Grant Commerce Fellow Grant

EXHIBIT F – Proclamation Honoring Vietnam War Era Veterans of Beech Mountain

EXHIBIT G – Ordinance No. 2016-09: *'An Ordinance to Regulate Lighting within the Town of Beech Mountain'*



Town of Beech Mountain

Ed Evans, MPA, Town Manager
Stacy C. Eggers, IV, Attorney

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www.townofbeechmountain.com

Council Members:
E. Rick Miller, Mayor
Paul Piquet, Vice Mayor
Renee Castiglione
Wendel Sauer
Rick Owen

Resolution No. 2016-05 GOVERNING BODY RESOLUTION OF THE TOWN OF BEECH MOUNTAIN TO PARTICIPATE IN THE MUNICIPAL INSURANCE TRUST OF NORTH CAROLINA

WHEREAS, certain municipalities and other units of local government of the State of North Carolina, as defined in G.S. 160A-460(2), have agreed to create the MUNICIPAL INSURANCE TRUST OF NORTH CAROLINA and have agreed to pool the risks associated with the provision of benefits for their designated benefit plan participants pursuant to, and to be governed by, the provisions of North Carolina General Statutes 160A-460 et seq. (Part 1 of Article 20 of Chapter 160A);

NOW THEREFORE BE IT RESOLVED, that the above named unit of local government elects to become a member of the MUNICIPAL INSURANCE TRUST OF NORTH CAROLINA upon the terms and conditions stated in the "Interlocal Agreement for a Group Self-Insurance Pool For Benefit Risk Sharing," with such future policy renewals constituting a continuing ratification of this decision to be a member of the Trust and abide by the terms and conditions of the Interlocal Agreement.

NOW THEREFORE BE IT FURTHER RESOLVED that the duly authorized officials of the above named unit of local government are directed to execute in the name of said unit the "Interlocal Agreement for a Group Self-Insurance Pool for Benefit Risk Sharing," a copy of which is attached to and made a part of this Resolution.

I certify that this is a true and correct copy of this Resolution, duly adopted by the governing body on the 9th day of August, 2016, as it appears of record in its official minutes.

Town of Beech Mountain
(Name of Unit of Local Government)

(SEAL)

By: _____
(E. Rick Miller, Mayor)

ATTEST: _____
(Jennifer Broderick, Town Clerk)

Authorization for Municipality or other Government Entity To Transact Business

Customer: TOWN OF BEECH MOUNTAIN
Address: 403 BEECH MOUNTAIN PARKWAY
BEECH MOUNTAIN NC 28604

Branch Name: MOUNTAIN COMMUNITY BANK A
DIVISION OF BANK OF TENNESSEE
Address: 3828 HWY 105
SUGAR MOUNTAIN NC 28604

THIS AUTHORIZATION, is made by and between Bank of Tennessee (including its Carter County Bank Division and its Mountain Community Bank Division)(herein the "Bank") and the Customer. This authorization is a Blanket Authorization (applies to all accounts and loans at the Bank titled as indicated above) or is an Account Specific Authorization covering the following account numbers: _____.

I, ENRICO G MILLER (Officer/Employee) certify that I am the authorized party under the charter/laws for TOWN OF BEECH MOUNTAIN (Customer) to designate and grant powers for transacting business on accounts and loans with the Bank. I will notify the bank of any changes in the below powers by submitting written notification to the Bank on an updated authorization form as required by the Bank.
Agents Any agent listed below, subject to any written limitations as indicated below is authorized to exercise the powers granted as indicated below:

	Name & Title or Position	Signature	Facsimile Signature (if used)
A	ENRICO G MILLER/ TOWN MAYOR	X	X
B	PAUL J PIQUET/ TOWN VICE MAYOR	X	X
C	HAROLD E EVANS JR/ TOWN MANAGER	X	X
D	STEVEN R SMITH/ TOWN FINANCE OFFICER	X	X
E		X	X
F		X	X

Powers Granted

Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the Agent signatures required to exercise the power. Please note: The Bank does not enforce multiple signatures on checks. Should you select more than one signer be required on checks, Customer will be responsible for enforcement of the policy and completely releases the Bank from any responsibility or liability of enforcement of the policy.

Indicate A,B,C,D,E and/or F	Description of Power	Indicate number of signatures required (See above for limitations on checks)
A,D	(1) Exercise all of the powers listed in this authorization	2
	(2) Open any deposit account(s) in the name of the Customer	
B,C	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with the Bank	2
	(4) Borrow money on behalf and in the name of the Customer, sign, execute and deliver promissory notes or other evidences of indebtedness.	
	(5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the Customer as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.	
	(6) Enter into a written lease for the purpose of renting, maintaining, accessing and terminating a Safe Deposit Box in this Bank.	
	(7) Other	

Limitations on Powers The following are the Customer's express limitations on the powers granted under this authorization:

TWO SIGNATURES REQUIRED

Effect on Previous Authorizations This authorization supersedes the authorization dated ALL PRIOR. If not completed, all authorizations on file remain in effect.

Certification of Authority

I further certify that at the time of adoption of this authorization, I had full power and lawful authority to adopt the resolutions included in this authorization and to confer the powers granted above to the persons named who have full power and lawful authority to exercise the same.

In Witness Whereof, I have subscribed my name to this document on _____ (date).

Signature & Title of Authorized Party
(Authorized Party must have been granted authority through the bylaws/charter or other laws that govern Customer to sign this authorization)

RESOLUTIONS

The customer named on this authorization resolves that,

- 1) The Bank is designated as a depository for the funds of the Customer and to provide other financial accommodations indicated in this resolution.
- 2) This authorization shall continue to have effect until express written notice of its rescission or modification has been received and recorded by the Bank. Any and all prior authorizations adopted by the Customer and certified to the Bank as governing the operation of this customer's account(s) are in full force and effect, until the Bank receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Bank establishing the authority for the changes.
- 3) The signature of an Agent on this authorization is conclusive evidence of their authority to act on behalf of the Customer. Any Agent, so long as they act in a representative capacity as an Agent of the Customer, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Bank, subject to any restrictions on this resolution or otherwise agreed to in writing.
- 4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the Customer with the Bank prior to the adoption of this authorization are hereby ratified, approved and confirmed.
- 5) The Customer agrees to the terms and conditions of any account agreement, properly opened by an Agent of the Customer. The Customer authorizes the Bank, at any time, to charge the Customer for all checks, drafts, or other orders, for the payment of money, that are drawn on the Bank, so long as they contain the required signatures for this purpose.
- 6) The customer acknowledges and agrees that the Bank may furnish at its discretion automated access devices to Agents of the Customer to facilitate those powers authorized by this authorization or other authorizations in effect that time of issuance. The term "automated access device" includes, but is not limited to, credit cards, automated teller machines (ATMs) and debit cards.
- 7) The Customer acknowledges and agrees that the Bank may rely on alternative signature and verification codes issued to or obtained from the Agent named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Bank, personal identification numbers (PIN) and digital signatures. If a facsimile signature specimen has been provided on this authorization, the Bank is authorized to treat the facsimile signature as the signature of the Agent(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature specimen on file. The Customer authorizes each Agent to have custody of the Customer's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Bank shall have not responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

FOR BANK USE ONLY

Acknowledged and received on _____ (date) by _____ (employee)

This authorization is superseded by authorization dated _____



**Community Assistance
Community Development Block Grant Program
Funding Approval**

1. Name and Address of Recipient

Town of Beech Mountain
403 Beech Mountain Parkway
Beech Mountain, North Carolina 28604-8012

2. Grant Number and Funding Approval Date

Grant Number : 04-D-2705
Date of Original Funding Approval : 07/25/16
Date of Amended Funding Approval :

3. Approved Projects**Approved Amount**

C1 Town of Beech Mountain Commerce

\$50,000.00

Total Grant Award

\$50,000.00

4. Funding Approval Conditions

The following conditions must be removed in writing by Community Assistance(CA) in order for all funds to be released for the approved project(s) listed in item (3) , above:

A. Citizen Participation and Compliance Condition (TECB)

No funds may be obligated or expended in any activity except for the administration activity until CA is provided a copy of the certified minutes for the public hearing.

B. Administration Contracts/Inter-local agreements Condition:

No funds may be obligated or expended in any project activity except the administration activity until the recipient has submitted either a copy of the contract awarded for administration of this grant or a statement signed by the CEO stating that the contract will be administered internally.

C. Assurance Condition:

No funds may be obligated or expended in any activity except for administration activity until Commerce is provided an Assurance Agreement stating that the local government will provide a policy document at closeout outlining the significance of capacity building in the furtherance of benefiting L/M income communities within its jurisdiction.

D. Use of Experienced CDBG Administrator:

No funds may be obligated or expended for the administration activity until the recipient has submitted a statement signed by the CEO stating that they will be using an experienced CDBG administrator or local government staff. This person should be one who has actually administered more than one (1) CDBG project. Please note that if issues result from the CDBG administrator, the local government will be subject to 4 NCAC 19L.

5. Signature of Authorized Official

✓ George Sherrill
Name George Sherrill

Director, CDBG Programs

July 25, 2016

Date

6. Signature of Authorized Local Official

✓ _____
Name

Title

Date

**North Carolina Department of Commerce
Community Development Block Grant Program**

**(Commerce Fellows Capacity Building)
Grant Agreement**

(Town of Beech Mountain)

Upon execution of this grant agreement, the North Carolina Department of Commerce (DOC) agrees to provide to **(Town of Beech Mountain)** the "Recipient" and collectively with DOC, the "Parties"), Community Development Block Grant (CDBG) assistance under Title I of the Housing and Community Development Act of 1974, (P.L. 93-383), as amended, authorized (and subject to Recipient's compliance with) the DOC funding approval, the North Carolina Community Development Block Grant administrative rules, other applicable laws, rules, regulations, and all other requirements of DOC now or hereafter in effect. The grant agreement is effective on the date the grant agreement and funding approval are signed by the Recipient. The grant agreement consists of the program guidelines and the approved application, including the certifications, maps, schedules and other submissions in the application, any subsequent amendments to this document or the approved application and funding approval and the following general terms and conditions:

1. **Definitions.** Except to the extent modified or supplemented by the agreement, any term defined in the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L, shall have the same meaning when used herein.
 - (a) Agreement means this grant agreement, as described above and any amendments or supplements thereto.
 - (b) Recipient means **(Town of Beech Mountain)**, the entity designated as a recipient for grant assistance in the grant agreement and funding approval.
 - (c) Certifications mean the certifications submitted with the grant application pursuant to the requirements of Paragraph (e) of Rule .0407 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L.
 - (d) "Assistance" or "Grant" means the grant funds provided under this Agreement from funds allocated to the State of North Carolina from the Federal Treasury through the CDBG and supporting laws, rules, requirements and regulations, in the amount of \$50,000 except as modified.

- (e) Program means the community development program, project, or other activities, including the administration thereof, for which assistance is being provided under this Agreement and which is described in the Recipient's approved application, as may be modified.
- (f) The date for receiving the grant means the date of the Department of Commerce Director's signature on the Grant Agreement and Funding Approval.

2. Timely Execution. Due to the need to expedite the use and expenditure of CDBG funds, Recipient's failure to execute and return a copy of the Agreement no later than August 31, 2016 may be deemed by DOC to determine the funds are available for reallocation to other subrecipients.

3. Obligations of the Recipient. The recipient shall perform the Program as specified in the application approved by DOC as may be amended with DOC approval. The Recipient hereby certifies that it will comply with all applicable federal and state laws, regulations, rules and Executive Orders, pursuant to Paragraph (e) of Rule .0407 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L. The Recipient shall also comply with all other lawful requirements of DOC, all applicable requirements of the General Statutes of the State of North Carolina specifically N. C. G. S. 87-1-87-15.9 and any other applicable laws, rules, regulations, requirements, and Executive Orders currently or hereafter in force. Recipient is prohibited from any fraud, waste and abuse of CDBG funds by any person or entity. The rules contained in 4 N.C.A.C. 19L (as well as applicable federal rules and regulations) are part of the Agreement, except where specifically modified by applicable law, rule, regulation, DOC, the CDBG HUD Program Requirements and any subsequent amendments, regulations or clarifications to any of the foregoing.

Additionally, Recipient agrees to ensure compliance with respect to the Program and the Grant (and any of its proceeds) with all applicable federal and state laws, rules, regulations and requirements, including but not limited to the following (as each may be modified or amended): (1) the CDBG HUD Program Requirements; (2) Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq*), (3) existing CDBG laws, rules, regulations and requirements, as may be amended, including those set forth in 24 C.F.R., Part 570; (4) North Carolina laws, rules, regulations and requirements; (5) DOC guidance and requirements regarding CDBG now or hereafter in effect, including but not limited to: DOC's CDBG Guidelines and Application Instructions, and DOC bulletins or other guidance documents; and (6) Recipient's own approved CDBG application to DOC, as may be amended with DOC approval.

4. Obligations of Recipient with Respect to Certain Third Party Relationships. Recipient is responsible to **DOC** for ensuring compliance with the provisions of this Agreement and all applicable laws, rules, regulations and requirements, even when the recipient designates a third party or parties to undertake all or any part of the Program. The Recipient shall comply with all lawful requirements of DOC necessary to ensure that the program is

carried out in accordance with the Recipient's certifications including but not limited to the certification of assumption of environmental responsibilities under Rule .1004 of the North Carolina Community Development Block Grant Administrative Rules, 4 NCAC 19L. If the Recipient contracts with or designates a third party to undertake all or part of the Program, the Recipient's contract with the third party must require the third party to comply with this Agreement, all applicable laws, rules, regulations and requirements, including but not limited to the procurement standards set forth in 4 N.C. Administrative Code 19L .0908 as may be applicable.

Recipient shall likewise ensure that all subrecipient contracts regarding Grant funds or relating to the Program include all required contractual elements in order to be in compliance with all Federal, State and local laws, including but not limited to the provisions contained in 24 C.F.R. § 570.503, 24 C.F.R. § 85.37, and other provisions described throughout this Agreement, where applicable. In any event, the Recipient is liable to DOC and HUD for any improper expenditures, damage, loss or harm resulting from the failure of any person or entity to comply with any applicable law, rule, regulation or requirement regarding the Grant funds and/or the Program, including but not limited to an act or omission by a subrecipient or other third party. The Recipient agrees to periodically and rigorously monitor and audit its subrecipients and other third parties to ensure compliance with all applicable requirements.

Any subcontracts or subrecipient agreements entered into by the Recipient with Grant funds shall be subject to all terms and conditions of this Agreement. Payment of all subcontractors and subrecipients shall be the sole responsibility of the Recipient, and DOC shall not be obligated to pay for any work performed by any subcontractor or subrecipient. The Recipient shall be responsible for the performance of all subcontractors and subrecipients and shall not be relieved of any of the duties and responsibilities of this Agreement as a result of entering into subcontracts or subrecipient agreements.

5. Changes to Agreement. Recipient agrees that DOC may supplement or modify this Agreement as may be necessary to implement additional or modified Federal or State guidance regarding implementation of the CDBG program.
6. Conflict of Interest. Recipient agrees to comply with all applicable conflict of interest provisions, including but not limited to those found at 4 N.C.A.C. 19 L .0908 and .0914, N.C. Gen. Stat. § 14-234, 24 C.F.R. § 85.36, 24 C.F.R. § 570.489 (g) and (h), and 24 C.F.R. § 570.611, where applicable, copies of which may be obtained from DOC.

Except for eligible administrative or personnel costs, the general rule is that no persons described in the following sentence who exercise or have exercised any functions or responsibilities with respect to grant activities assisted under this Agreement or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a Grant-assisted activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for

themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest summary in the sentence above generally applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or Recipient or applicable third parties which are receiving CDBG grant funds.

Recipient agrees to include these same prohibitions in all such contracts or subcontracts with any subrecipients or other third parties relating to the Program.

In any event, the Assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining DOC approval of the application for such assistance, or DOC approval of applications for additional assistance, or any other approval or concurrence of DOC required under this Agreement, or the North Carolina Community Development Block Grant Administrative Rules, with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not prohibited if otherwise eligible as program costs and allowed by applicable law.

Additionally, certain limited exceptions to the conflict of interest rules listed in 24 C.F.R. § 570.489 may be granted in writing by HUD and/or DOC upon written request and the provision of information specified in 24 C.F.R. § 570.489(h)(ii)(4).

7. Reimbursement to DOC for Improper Expenditures. The Recipient will reimburse DOC for any amount of Grant assistance improperly expended, either deliberately or non-deliberately, by any person or entity. Additionally, a contract for administrative services should include a clause holding the administrator organization responsible for reimbursement to the Recipient for any improperly expended grant funds that had to be returned to DOC.
8. Recordkeeping Requirements. Recipient will maintain any and all records and comply with all responsibilities as may be required under typical CDBG recordkeeping (for example, records and responsibilities set forth in 4 N.C.A.C. 19L.0911 ("Recordkeeping"), 24 C.F.R. 570.490 ("Recordkeeping Requirements"), 24 C.F.R. § 570.506 ("Records to be maintained") and 24 C.F.R. § 85.42 ("Retention and Access Requirements for Records") as each may be modified by HUD or DOC) as well as records and responsibilities related to CDBG or specifically to CDBG funds. Recipient agrees to comply with any additional record-keeping requirements now or hereinafter set forth by DOC, HUD or any other federal or state entity.
9. Access to Records. The Recipient shall provide any duly authorized representative of DOC, the State of North Carolina, the federal Department of Housing and Urban Development (HUD), and the Comptroller General, the Inspector General and other authorized parties at all reasonable times access to and the right to inspect, copy,

monitor, and examine all of the books, papers, records, and other documents relating to the grant for a period of five years following the completion of all close-out procedures. All original files shall be maintained at the Local Government offices for access purposes.

10. Method of Payment. The Department of Commerce uses the Office of State Controller (OSC) to make CDBG payments to units of local government. The Electronic Payment Form from OSC must be completed for funds to be electronically transferred. Arrangements must be made with the Finance Officer in Community Investment and Assistance if a Recipient does not want to use the electronic funds transfer.
11. Fair Housing. Recipients of CDBG funds are required to comply with fair housing and non-discrimination laws and regulations. Recipients should consult Section .1001 of the CDBG administrative rules for further information on equal opportunity requirements. Recipients are required to submit a fair housing plan for its jurisdiction. Recipients with 10,000 persons or more will be required to complete an Analysis to Impediments to Fair Housing Choice Study. For each grant year that a CDBG project is active, a Recipient must describe the actions it will take in the areas of enforcement, education and removal of barriers and impediments to affirmatively further fair housing. Guidance for developing a Fair Housing Plan can be found in CDBG Bulletin 10-25 and the CDBG Compliance Plans and Templates (www.nccommerce.com/cd/investment-assistance/forms-resources).
12. Equal Employment and Procurement Opportunity. A Recipient must describe the actions it will take annually while the grant is open in the areas of enforcement, education and removal of barriers and impediments that affirmatively further equal access in employment and procurement. This includes a description of steps to be taken in the areas of advertisement, compliance and complaint tracking.
13. Local Economic Benefit (Section 3 Regulation). For each year that a CDBG is active, the Recipient must describe a strategy whereby opportunities in employment and procurement arising out of a CDBG assisted project are identified and made available to low-income residents within the CDBG assisted area to the greatest extent feasible. This strategy must include (1) identification of training and technical assistance resources to prepare low-income residents for employment and procurement opportunities, (2) attempts to reach the numerical targets for new hires set forth in the Section 3 regulation, which applies to Recipients receiving \$200,000 or more in non-administrative line items expended for construction contracts and (3) education of low-income residents within the CDBG assisted area about the components and opportunities of the program.

In addition, Recipients will be required to coordinate additional activities as it relates to Section 3 with the DOC CDBG Compliance Office.

14. Section 504 and ADA. Recipients must complete the Section 504 Survey and Transition Plan. This plan will not satisfy all the requirements of the Americans with Disabilities Act, but it will meet the minimum requirements for a CDBG assisted project.

15. Environmental Review. Recipients of CDBG funds are required to complete the document entitled "Environmental Review Procedures for the CDBG Program." Once the Environmental Review Record (ERR) is received, the Department of Commerce will review for completeness. Recipients cannot conduct any program activities until the Department of Commerce issues an environmental clearance.
16. Language Access Plan (LAP). Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by Limited English Proficient (LEP) persons to important government programs, services, and activities. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and its implementing regulations require that Recipients take responsible steps to ensure meaningful access by LEP persons. Recipients will be required to submit a language access plan using the approved template from the Department of Commerce. The plan will address the LAP policy, translation of required vital documents, and requirements for citizen participation.
17. Procurement Standards. Where applicable, Recipient shall follow the procurement standards established in the "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments"

(2 C.F.R., Part 200) and HUD implementing regulations contained in 24 C.F.R. § 570.489(g), which explicitly prohibit cost plus a percentage of cost and percentage of construction cost methods of contracting, 4 N.C.A.C. 19L.0908.

- a. Any Recipient or Subrecipient shall follow other applicable procurement standards set forth in 4 N.C.A.C. 19L.0908, and the relevant laws cited therein, including but not limited to, laws related to conflicts of interest (N.C.G.S. §14-234), public building contracts (N.C.G.S. § 148-128 to 135), and payment and performance bonds (N.C.G.S. § 44A-25 through 35); acquisition and relocation (4 N.C.A.C. 19L.1003); property management standards (4 N.C.A.C. 19L.0909); equal opportunity (4 N.C.A.C. 19L.1001); and labor standards (4 N.C.A.C. 19L.1006).
- b. Recipient shall likewise follow all other applicable federal and state procurement rules, guidelines and procedures, including those set forth in Office of Management and Budget, 2 CFR Subpart E Cost Principles for State and Local Governments.

In any event, per 24 C.F.R. 570.489(g), all purchase orders and contracts shall include any clauses required by Federal statutes, executive orders and implementing regulations.

Additionally, Recipient acknowledges and agrees that, in its conduct under this Agreement and in connection with any and all expenditures of Grant funds made by it, Recipient, its officers, agents and employees shall be and are subject to the provisions of the North Carolina General Statutes and the North Carolina Administrative Code relating to and governing procurement, public contracts, suspension and debarment. Recipient further acknowledges and agrees that, in the event that it grants any of the Grant funds awarded hereunder to one or more subrecipients or other applicable entities, Recipient shall, by contract, ensure that the provisions of all applicable laws relating to and governing

procurement, public contracts, suspension and debarment are made applicable to and binding upon any and all subrecipients and/or other applicable entities.

18. False or Misleading Information. Recipient is advised that providing false, fictitious or misleading information with respect to CDBG funds may result in criminal, civil, or administrative prosecution under 18 U.S.C. § 1001, 18 U.S.C. § 1343, 31 U.S.C. § 3729, 31 U.S.C. § 3801, or another applicable statute. Recipient shall promptly refer to DOC and HUD's Office of the Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving CDBG funds.
19. Disputes with DOC. If Recipient has any disagreement or dispute with any action or by DOC, Recipient shall inform DOC by letter addressed to Melody J. Adams, Acting Director, Department of Commerce –Community Assistance Division, 4313 Mail Service Center, Raleigh, NC 27699-4313. The Department of Commerce will endeavor to respond in writing to said letter within 30 days from receipt. Recipient shall not be entitled to a hearing under Chapter 150B for matters described in N.C. Gen. Stat. § 150B(c)(8), added by N.C. Senate Bill 960, including matters related to “contracts, disputes, protests, and/or claims arising out of or relating to the implementation of the [CDBG].” This includes actions arising out of or related to this Agreement or the Program.
20. Disputes or Complaints by Subrecipients or Other Entities. Recipient is responsible for developing, implementing and utilizing its own dispute resolution procedures with respect to disputes and/or complaints between and among Recipient, a Subrecipient, a contractor and/or any other person or entity (other than DOC). This includes (but is not limited to) procedures relating to procurement disputes or protests discussed in 2 C.F.R. 200. In the event of a dispute between and among Recipient, any Subrecipient, contractor and/or any other persons or entities (not including DOC), Recipient shall make every effort to resolve the dispute pursuant to its own dispute resolution procedures and shall issue a final decision on the matter as soon as is reasonably practicable. Recipient's dispute resolution procedure shall provide that, in the event that any party to such a dispute or complaint is dissatisfied with the final decision or other resolution provided by Recipient, the dissatisfied party shall appeal to the North Carolina Superior Court in an appropriate County for a trial de novo, to the extent that jurisdiction is proper pursuant to N.C. Gen. Stat. § 7A-240 and other applicable law.
21. Schedules
 - (a) Schedule for Release of Conditions and Completion Activities. **The Recipient must satisfy all Funding Approval Conditions to release CDBG funds no later than August 31, 2016.**
 - (b) The recipient must draw down all CDBG funds and complete all project activities in conformance with the activities implementation schedule in the application as modified by the Performance Based Contract.

- (c) The Recipient must obligate all funds within 9 months (April 25, 2017) from the date the Grant Agreement and Funding Approval are signed by the Department of Commerce Director.
- (d) All funds are to be expended within 12 months (July 25, 2017) from the date the Grant Agreement and Funding Approval are signed by the Department of Commerce Director. Any remaining funds will be de-obligated.
- (e) All closeout documents must be submitted to the Department of Commerce by (10/25/17) or within 3 months of all funds drawn down and expended, whichever comes first.
- (f) Schedule for Submission of Compliance Documents. The Recipient must submit the following compliance documents within the specified number of months from the date the Grant Agreement and the Funding Approval were signed by the Department of Commerce Director:
- Equal Employment and Procurement Plan -- 2 months (September 25, 2016)
 - Fair Housing -- 2 months (September 25, 2016)
 - Section 3 Plan -- 2 months (September 25, 2016)
 - Language Access Plan-2 months (September 25, 2016)
- (g) Timely Draw down of Funds. Recipient is required to draw down activity funds monthly after they are given the authority to use funds. If this requirement is not met, the grantee will be subject to review and remedies as stated in 04 NCAC 19L. 1104.

22. Quarterly Performance Status Report. Recipient shall ensure that a quarterly performance status report is provided to the local unit of government's governing body. This report is essential in aiding the local government in determining the status of the grant and assists the Department of Commerce in identifying when to schedule technical assistance, site monitoring, desktop reviews, or providing additional clarification to the grantee. **The Quarterly Performance Status Report is due the 15th of each month following each quarter. This Report should be emailed to your Grant Representative. Failure to submit your report on the 15th following each quarter may result in your grant funds being frozen. All performance is based on the Performance Based Contract submitted to the Department of Commerce by the local unit of government at the beginning of the grant.**

23. Performance Measures
The CPD Performance Measurement System is HUD's response to the standards set by the Government Performance and Results Act (GPRA) of 1993. This act holds all Federal agencies accountable for establishing goals and objectives and measuring achievements.

- (a) The recipient must ensure that all activities in the funded project(s) meet the appropriate objectives, outcomes, and indicators established by HUD and selected by DOC. CDBG funds cannot be used to pay for any activity that does not meet the above requirement.
- (b) The recipient must also assist DOC, when requested, in collecting indicators and any other data necessary to fulfill the requirements of the CPD Performance Measures System, which includes data for the Integrated Disbursement and Information System (IDIS).

Upon execution of this agreement by DOC and the Recipient, the Recipient hereby accepts the assistance on the terms of this grant agreement effective on the date indicated below, and further certifies that the official signing this document has been duly authorized by the recipient's governing body to execute this Grant Agreement.

Secretary of the Department of Commerce

Date: July 25, 2016

By: George Sherrill
George Sherrill
Director, CDBG Programs

Date: _____

Name of Recipient

By: _____
Signature of Authorized Official



Ed Evans, MPA, Town Manager
Stacy C. Eggers, IV, Attorney

Town of Beech Mountain

403 Beech Mountain Parkway
Beech Mountain, North Carolina 28604-8012
Telephone (828) 387-4236
Fax (828) 387-4862
www.townofbeechmountain.com

Council Members:
E. 'Rick' Miller, Mayor
Paul Piquet, Vice Mayor
Renee Castiglione
Wendel Sauer
Rick Owen

Resolution No. 2016-06

Authorized Signature Resolution Town of Beech Mountain Town Council Community Development Block Grant - Commerce Fellows #04-D-2705

WHEREAS, the Beech Mountain Town Council has been awarded a Community Development Block Grant (CDBG) Commerce Fellows project, #04-D-2705; and

WHEREAS, timely payment requisitions and contractor payments are critical to the implementation of the project; and

WHEREAS, the North Carolina Department of Commerce requires that the Town designate at minimum two (2) Town officials to sign requisition forms and to provide the Department of Commerce with signatory cards to be kept on file.

NOW, THEREFORE, BE IT RESOLVED, the Beech Mountain Town Council designates the following four officials as having authority to sign payment requisitions:

1. E. 'Rick' Miller, *Mayor*
2. Paul Piquet, *Vice Mayor*
3. Ed Evans, *Town Manager*
4. Steve Smith, *Finance Officer*

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Beech Mountain Town Council will complete the required signatory cards and send originals to be kept on file at the North Carolina Department of Commerce.

ADOPTED, this 9th day of August, 2016.

By: _____
(E. 'Rick' Miller, Mayor)

ATTEST: _____
(Jennifer Broderick, Town Clerk)

AGREEMENT
Between the
High Country Council of Governments and
The Town of Beech Mountain

For the Provision of
GRANT MANAGEMENT ASSISTANCE

CDBG Commerce Fellow Grant

August 1, 2016 – October 31, 2017

This Agreement, entered into by and between the High Country Council of Governments (hereinafter called the "Planning Agency") and the Town of Beech Mountain, North Carolina (hereinafter called the "Local Government"), WITNESSETH THAT:

WHEREAS, the Planning Agency is empowered to provide planning assistance by the North Carolina General Statutes. Planning assistance shall consist of the provision of grant management assistance regarding the Town of Beech Mountain's CDBG Commerce Fellows Grant Number 04-D-2705, more fully described on Attachment A to this Agreement; and

WHEREAS, the Local Government has requested the Planning Agency to provide such grant management assistance to the Local Government; and

WHEREAS, the Planning Agency desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner.

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

- 1) That during the period of the Contract, the Planning Agency will furnish the necessary trained personnel approved by the Local Government.
- 2) *Compensation* - The Local Government will pay the Planning Agency \$3,500 (Three Thousand Five Hundred) for grant preparation assistance and \$5,000 (Five Thousand) for the satisfactory performance of all services related to the administration of the project, as defined in the attached scope of services (Attachment A) for a total of \$8,500 (Eight Thousand Five Hundred). It is expressly understood that the total compensation shall not exceed the maximum sum specified without prior approval of both agencies.

- 3) *Time performance* - The Planning Agency shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning August 1, 2016 and ending October 31, 2017.
- 4) *Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials* - no member, officer, or employee of the Planning Agency, or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
- 5) *Nondiscrimination Clause* - No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.
- 6) *Age Discrimination Act of 1975, as amended* - No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 7) *Section 504, Rehabilitation Act of 1973, as amended* - No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 8) *Access to Records and Record Retainage* - All official project records and documents must be maintained during the operation of this project and for a period of five years following closeout, in compliance with 04 NCAC 19L Rule .0911, Record keeping. The North Carolina Department of Commerce, the North Carolina Department of Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Planning Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examination, excerpts, and transcriptions in compliance with 04 NCAC 19L Rule .0911, Record keeping.

- 9) *Termination of Agreement for Cause* - If, through any cause, the Planning Agency shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Planning Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.
- 10) *Grantee Assurances* - In the performance of this Agreement, the Planning Agency shall comply with all applicable Federal rules and procedures outlined on the attached pages as E.O. 11246 Clause and the Section 3 Clause (Attachment B)
- 11) *Remedies/Sanctions or Breach of Contract Terms* - In accordance with 24 CFR 85.36, upon written notice, the Local Government may withhold payments to the Planning Agency if the Planning Agency shall fail to fulfill in a timely and proper manner its obligations to the Local Government under this contract, or if the Planning Agency shall violate any of the conditions of this contract. The Local Government shall in its written notice to the Planning Agency fully describe the nature of failure or violation by the Planning Agency, the corrective action required of the Planning Agency, and the Local Government shall allow the Planning Agency thirty (30) days from the date of the notification to correct such failure and/or violation. If such failure or violation is corrected by the Planning Agency within thirty (30) days from the date of notification, then the Local Government shall process payment(s) to the Planning Agency. If such failure or violation is not corrected within thirty (30) days from the date of the notification, then the Local Government may proceed to terminate this contract.

IN WITNESS WHEREOF, the Planning Agency and the Local Government have executed this Agreement as of _____, 20_____.

For the Local Government

For the Planning Agency

TOWN OF BEECH MOUNTAIN

**HIGH COUNTRY
COUNCIL OF GOVERNMENTS**

By: _____

By: _____

Mayor

Executive Director

Attest

Attest

THIS INSTRUMENT HAS BEEN PREAUDITED
IN THE MANNER REQUIRED BY THE LOCAL
GOVERNMENT BUDGET AND FISCAL
CONTROL ACT

ATTACHMENT A

Scope of Services Town of Beech Mountain Commerce Fellows Grant

Scope of Services/Staff Assignment

The Scope of Services includes activities associated with the project administration and service delivery. The High Country Council of Governments will assign Michelle Ball, High Country Community Development Planner, the responsibility of administering the Town of Beech Mountain Commerce Fellows Grant CDBG #04-D-2705. Phillip Trew, Director of Planning and Development will provide overall supervision of this project. The scope of services will include the following:

- 1) Maintain on file all correspondence, agreements, and documentation relating to project activities.
- 2) Maintain documentation on the use of all project funds.
- 3) Process the Requisition for CDBG funds as necessary.
- 4) Complete all environmental review procedures.
- 5) Prepare all required public notices for publication, including request for Release of Funds.
- 6) Prepare project amendments, if needed.
- 7) Maintain complete files with all documentation required by program regulations.
- 8) Submit reports to the NC Department of Commerce in a timely manner.
- 14) Assist the Local Government in closeout procedures.
- 15) Submit quarterly progress reports to the Local Government which would include; list of all project activities, expenditures, units accomplished, description of work in progress and information on any problems with the grant.
- 16) Perform other activities deemed necessary for the success of the project.

Time of Performance

The High Country Council of Governments proposes to complete all activities involved in administration of the Town of Beech Mountain CDBG Commerce Fellows Grant in a 15-month period beginning August 1, 2016 through October 31, 2017.

Cost

Administrative Budget

The High Country Council of Governments will provide the above services, which includes project administration and services associated with grant preparation for a fee of \$8,500. The budget is broken down as follows:

Planning/Grant Prep Assistance	\$3,500
Administration*	<u>\$5,000</u>
Total	\$8,500

* includes salaries, fringe benefits, and indirect costs

Assurances

Assurances are attached as a part of the contract.

Amendments

This scope of services and budget may be amended as desired by mutual consent of the Local Government and Planning Agency.

ATTACHMENT B

Assurances of Compliance

Executive Order 11246

During the performance of this Contract, the contractor agrees as follows:

- 1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex age, or national origin.
- 3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulation, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Section 3 Clause

"Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities.

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties of this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment and training.
- d. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors or assigns to those sanctions specified by the grant or loan agreement of contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- g. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 79(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogations of the compliance with Section 7(b).

Lobbying Clauses

Required by Section 1352, Title 31, U.S. Code

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Town of Beech Mountain

Ed Evans, MPA, Town Manager
Stacy C. Eggers, IV, Attorney

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Beech Mountain, North Carolina 28604-8012
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www.townofbeechmountain.com

Council Members:
E. Rick Miller, Mayor
Paul Piquet, Vice Mayor
Renee Castiglione
Wendel Sauer
Rick Owen

Proclamation Honoring Vietnam War Era Veteran “Armed Service Branch, Rank, and Name” “Years Served”

WHEREAS, for more than 200 years, individuals from all walks of life have taken up arms and sworn an oath to support and defend the principles upon which our country was founded; and

WHEREAS, throughout our history, courageous men and women have donned the uniform of our Armed Forces and built a noble tradition of faithful and dedicated service to our Nation; and

WHEREAS, at a time of great world crisis during the Vietnam War Era you answered the call and served your country and the cause of freedom; and

WHEREAS, the unwavering commitment of service members like you has preserved our freedoms and saved millions around the world from tyranny; and

WHEREAS, we can never fully repay our debt of gratitude to the heroic men and women who served during the Vietnam War Era.

NOW THEREFORE, BE IT RESOLVED that the Town of Beech Mountain, North Carolina, in keeping with the time honored tradition of recognizing and honoring our veterans, does hereby extend its gratitude to those veterans who served and sacrificed so valiantly during the time period of 1955 to 1975 to preserve our heritage and freedom. Let us re-consecrate ourselves to the task of promoting an enduring peace so that your efforts shall not have been in vain.

Signed this date: August 9, 2016

ATTEST:

E. Rick Miller, Mayor

Jennifer Broderick, Town Clerk

Ordinance No. 2016-09

TOWN OF BEECH MOUNTAIN

AN ORDINANCE TO REGULATE LIGHTING WITHIN THE TOWN OF BEECH MOUNTAIN

WHEREAS, The Town of Beech Mountain strives to protect the health, safety and welfare of its citizens and visitors; and

WHEREAS, The Town of Beech Mountain currently lacks any regulations regarding lighting standards; and

WHEREAS, Bright and unshielded lighting applications can disturb the tranquility and serenity of the community.

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

SECTION I. The Town of Beech Mountain Code of Ordinances, Sections: §154.151-§154.159 are hereby adopted by the Town Council and codified as follows:

LIGHTING

§ 154.151 Purpose and Objectives. The purpose of this Ordinance is to provide regulations that preserve and enhance the view of the dark sky; promote health, safety, security, and productivity; and help protect natural resources by promoting energy efficiency. The provisions of this Ordinance are intended to control glare, light trespass, and the obtrusive aspects of excessive and/or careless outdoor light usage. It is the intent of this Ordinance to provide standards for appropriate lighting practices and systems that will enable people to see essential detail in order that they may undertake their activities at night, facilitate safety and security of persons and property, and curtail the degradation of the nighttime visual environment.

§ 154.152 Definitions. The following terms have the following definitions for purposes of this Ordinance:

- A. "Accent lighting" means any luminaire that emphasizes a particular object or draws attention to a particular area for aesthetic purposes.
- B. "Cut-off angle" (of a luminaire) means the angle, measured from the lowest point between a vertical line from the center of the lamp extended to the ground and the first line of sight at which the bare source is not visible.

- C. "Fixture" (also called a "Luminaire") means a complete lighting unit including the lamps, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.
- D. "Foot-candle" means a measure of illuminance or a measure of how bright a light appears to the eye. One foot-candle is equal to one Lumen/ft². As an example, a typical 60-watt incandescent lamp (840 lumens) produces an illuminance of 0.1 foot-candles at a distance of about 25 feet.
- E. "Fossil fuel light" means any outdoor lighting fixture producing light directly by the combustion of natural gas or other fossil fuel.
- F. "Lamp" means the light-producing source installed in the socket portion of a luminaire.
- G. "Light pollution" means general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.
- H. "Light trespass" means any light emitted by an outdoor luminaire that shines directly beyond the property on which the luminaire is installed, or indirectly shines beyond the property on which the luminaire is installed at a brightness (illuminance) that exceeds 0.1 foot-candles at the property line.
- I. "Luminaire" - see definition for "Fixture."
- J. "Outdoor lighting fixture" means a luminaire outside of an enclosed building or structure or any luminaire directed such that it primarily illuminates outdoor areas.
- K. "Shielding" means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture.
- L. "Spotlight" means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
- M. "Use, abandonment of" means the relinquishment of a property, or the cessation of a use or activity for a continuous period of twelve months, excluding temporary or short term interruptions for the purpose of remodeling, maintaining or rearranging a facility. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions that constitute the principal use of the property.
- N. "Strobe light" means a lamp that produces very short, intense flashes of light.
- O. "Public Streetlight" means a light that is erected and owned by the electric utility company, is located within the right of way of a public street or on other property

owned or maintained by the Town of Beech Mountain, and for which the cost of operation is borne by the Town of Beech Mountain.

§154.153 Applicability.

- A. All outdoor lighting fixtures installed on private and public property shall comply with this Ordinance. This Ordinance does not apply to interior lighting; provided, that if it is determined by the Town that any interior lighting emitting light outside of the building or structure in which it is located creates a light trespass, the interior lighting shall be subject to the requirements of this Ordinance.

§154.154 Exemptions.

- A. The following are exempt from the provisions of this Ordinance:

1. Light fixtures (including public streetlights) installed prior to the effective date of this Ordinance, provided that;
 - a) If a fixture is replaced, any replacement light fixture shall be subject to the provisions of this Ordinance.
 - b) Where existing, non-conforming light fixtures cause considerable disturbance, these fixtures shall be required to provide shielding and/or utilize the lowest wattage bulbs available for that fixture to the extent possible.
2. Temporary emergency lighting (i.e. fire, police, repair workers) or warning lights.
3. Moving vehicle lights.
4. Navigation lights (i.e. radio/television towers) or any other lights where state or federal statute or other provision of the Town of Beech Mountain Code requires lighting that cannot comply with this Ordinance. In such situations, lighting shall be shielded to the maximum extent possible, and lumens shall be minimized to the maximum extent possible, while still complying with state or federal statute.
5. Seasonal decorations do not have to be shielded, provided that they do not have a brightness of more than 0.1 foot-candles at the property line on which they are installed.
6. Outdoor lighting approved by the Town for temporary or periodic events (e.g. fairs, nighttime construction).
8. Sign lighting in compliance with the Town of Beech Mountain's sign regulations.
9. Campfires, bonfires, fire pits and the like.

10. Ski Slope lighting.
11. Exemption for Temporary Lighting. Any person may request of the Town Council a temporary exemption from the provisions of this Ordinance.
12. Lighting within commercial and public zoning districts (CS1, CS2, PS) shall be exempt from the restrictions on light trespass with respect to other properties within commercial or public zoning districts. A property zoned commercial or public may not install lighting fixtures that create a light trespass upon a residentially zoned property.
13. Public streetlights that emit less than 3,000 kelvin and are of the 100 Watt High Pressure Sodium or LED lighting type shall be exempt from the restrictions on light trespass in this ordinance, provided that the Town of Beech Mountain, as financier of such lighting may request that Mountain Electric modify or remove such lighting at its discretion.

§154.155 General Standards.

The following general standards shall apply to all non-exempt outdoor lighting fixtures and accent lighting:

- A. Light trespass is prohibited.
- B. Outdoor lighting fixtures and accent lighting must be shielded and aimed downward or toward the object which they illuminate, without encroaching beyond such object. The shield must mask the direct horizontal surface of the light source or direct light at a specific illuminated object. The light must be aimed to insure that the illumination is only pointing downward onto the ground surface or at the specific object, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.
- C. All outdoor lighting fixtures and accent lighting shall be designed, installed, located and maintained such that there is no light trespass.

§154.156 Prohibited.

- A. The following fixtures (luminaires) are prohibited:
 1. Searchlights for any other purpose other than temporary emergency lighting.
 2. Laser lights or any similar high-intensity light for outdoor use or entertainment, when projected above the horizontal plane.
 3. Public streetlights emitting greater than 3000 kelvin.

4. Strobe lights.

§154.157 Submittals.

All building permit applications including the installation of outdoor lighting fixtures shall provide evidence of compliance with the requirements of this Ordinance.

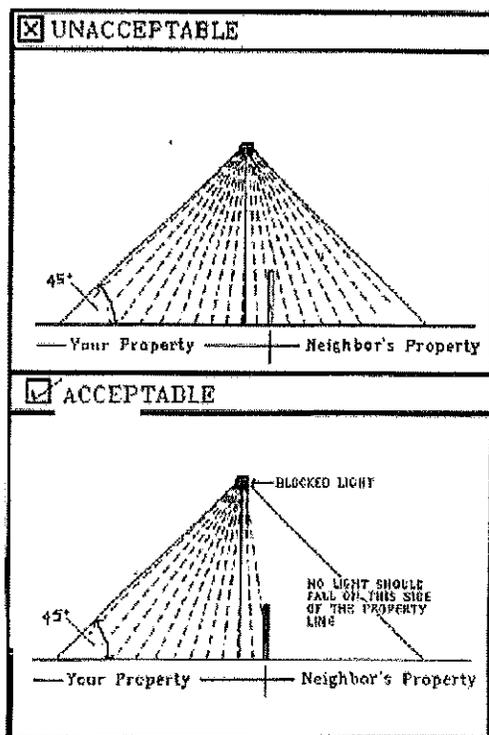
§154.158 Resumption of Use after Abandonment.

If a property of use with non-conforming lighting is abandoned (see definitions) then all outdoor lighting shall be reviewed and brought into compliance with this Ordinance before any use is resumed.

§154.159 Severability.

If any clause, sentence, paragraph, section or part of this Ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances.

Appendix. Figures of acceptable shielding and direction of outdoor light fixtures. The following figure illustrates the concept of light encroachment and what is acceptable and unacceptable outdoor lighting fixtures in the Town.



SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Town of Beech Mountain Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Town Council in passing this Ordinance that its parts shall be severable and all other parts of the Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 9th day of August, 2016.

This Ordinance adopted the 9th day of August, 2016.

E. *Rick* Miller, Mayor

Attest:

Jennifer Broderick, MMC
Clerk to the Board