



**AGENDA**  
**Regular Town Council**  
**Tuesday, April 13, 2021**  
**Council Chambers 4:00 PM**

Page

1. CALL TO ORDER

Beech Mountain is inviting you to a scheduled Zoom meeting.

Topic: Town Council Meeting

Time: Apr 13, 2021 04:00 PM Eastern Time (US and Canada)

Every month on the Second Tue, 8 occurrence(s)

Apr 13, 2021 04:00 PM

May 11, 2021 04:00 PM

Jun 8, 2021 04:00 PM

Jul 13, 2021 04:00 PM

Aug 10, 2021 04:00 PM

Sep 14, 2021 04:00 PM

Oct 12, 2021 04:00 PM

Nov 9, 2021 04:00 PM

Please download and import the following iCalendar (.ics) files to your calendar system.

Monthly: [https://us02web.zoom.us/meeting/tZcsce-qpiopHNZisrjNTJSvJpV5LQ-II-v8/ics?icsToken=98tyKuGrrz0sGNyUsx-FRpwqBY\\_oM-rxiH5ego1nlQz3CQ5nSDDgHPJ0Z55OXfH5](https://us02web.zoom.us/meeting/tZcsce-qpiopHNZisrjNTJSvJpV5LQ-II-v8/ics?icsToken=98tyKuGrrz0sGNyUsx-FRpwqBY_oM-rxiH5ego1nlQz3CQ5nSDDgHPJ0Z55OXfH5)

Join Zoom Meeting

<https://us02web.zoom.us/j/83166281362>

Meeting ID: 831 6628 1362

One tap mobile

Dial Toll-free

877 853 5247 US Toll-free

888 788 0099 US Toll-free

Meeting ID: 831 6628 1362

Find your local number: <https://us02web.zoom.us/u/kbGCQYXVJ>

2. ADOPTION OF AGENDA

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT

5.	CONSENT AGENDA	
5.1.	Adoption of Minutes - Special Work Session February 25, 2021 minutes	5 - 14
	Incomplete - regular meeting March 9, 2021 minutes <a href="#">Special Work Session Meeting of Town Council - 25 Feb 2021 - Minutes - Pdf</a>	
5.2.	FY 2021 Budget Ordinance Amendment #4	15 - 21
	Approve amendment as presented <a href="#">Output Document (Staff Report - 0443) - Pdf</a>	
5.3.	Water and Wastewater Systems Capital Improvements Plan	23 - 26
	To adopt the recommended plan <a href="#">Output Document (Staff Report - 0445) - Pdf</a>	
5.4.	Authorizing Resolution Application for Funding	27 - 30
	Approve as presented <a href="#">Output Document (Staff Report - 0444) - Pdf</a>	
5.5.	Resolution Opposing SB 349/HB 401 and HB 291	31 - 49
	<a href="#">Output Document (Staff Report - 0453) - Pdf</a>	
5.6.	Proclamation for Arbor Day	51 - 53
	<a href="#">Output Document (Staff Report - 0455) - Pdf</a>	
6.	OLD BUSINESS	
7.	NEW BUSINESS	
7.1.	Call for Public Hearing: Solid Waste Ordinance Revisions	55 - 74
	Staff recommends that Town Council call for a Public Hearing on the proposed changes to the Solid Waste Ordinance at the next regularly scheduled meeting, Tuesday, May 11th, 2021 at 4:00pm. <a href="#">Output Document (Staff Report - 0454) - Pdf</a>	
8.	TOWN MANAGER AND STAFF REPORTS	
8.1.	February Finance and Budget Report	75 - 79
	Review <a href="#">Output Document (Staff Report - 0442) - Pdf</a>	
8.2.	Department of Infrastructure Report	81 - 89
	<a href="#">Output Document (Staff Report - 0448) - Pdf</a>	
8.3.	Fire Department Monthly Report	91 - 92
	<a href="#">Output Document (Staff Report - 0447) - Pdf</a>	
8.4.	March 2021 Recreation Report	93 - 95
	<a href="#">Output Document (Staff Report - 0450) - Pdf</a>	
8.5.	Police Department Monthly Report	97 - 98
	<a href="#">Output Document (Staff Report - 0449) - Pdf</a>	
8.6.	TDA April Report	99 - 102

[Output Document \(Staff Report - 0451\) - Pdf](#)

8.7. Planning and Inspections Report 2021-03

103 - 105

[Output Document \(Staff Report - 0452\) - Pdf](#)

9. TOWN COUNCIL COMMENTS

10. ADJOURNMENT





# MINUTES

## Special Meeting of Town Council Meeting

2:00 PM - Thursday, February 25, 2021  
Council Chambers

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The Special Meeting of Town Council of the Town of Beech Mountain was called to order on Thursday, February 25, 2021, at 2:00 PM, in the Council Chambers, with the following members present:

**COUNCIL PRESENT:** Mayor Barry Kaufman  
Vice Mayor Jimmie Accardi  
Councilmember Weidner Abernethy  
Councilmember Erin Gonyea  
Councilmember Kelly Melang

**COUNCIL EXCUSED:**

**STAFF PRESENT:** Town Manager Bob Pudney  
Town Clerk Tamara Mercer  
Public Utilities Superintendent Daniel Davis  
Public Works Superintendent Matthew Clawson  
Director of Special Projects Riley Hatch

1. **CALL TO ORDER**
2. **ADOPTION OF AGENDA**
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENT**

- 4.1. Solid Waste Public Comments

2/11/2021

Judith Elliott: Current trash facility

Please explain what will happen to the current trash area after the new recycling center is open? Jdenunzio03@gmail.com

2/22/2021

Trash Can

I was advised to share with you ahead of the town meeting about an issue we are having with other property renters putting trash in our trash can. I had posted that we were having an issue on the beech mountain families FB page. We have stopped a few people from doing so and have spoken with the rental company who manages the property, but didn't know what else we should do. We paid a lot of money to put up a bearicade trash can and would hate to have to continually lock and unlock for the trash collectors. I'm not sure if requiring those that rent their homes to do the same is the best option, but I know the house across from us rents and they do not have a trash can at all which seems to be our biggest issue (though it could be the construction workers too). We've gone as far as to put in large letters not to do so, but to no avail. Please advise.

Dr. Leslie Kirk [drlesliekirk@gmail.com](mailto:drlesliekirk@gmail.com)

Skiway Circle

2/24/2021

As a longtime owner at Beech, I have witnessed many changes in the landscape over the years.

For many years, in the summer and weekends, my family and I enjoyed our Beech Mtn condo. Almost two years ago, after the sale of my home in Charlotte, I moved to Beech permanently.

During some of the years, before making Beech my permanent residence, I rented out the condo thru VRBO. I also had a beach house at the SC coast, which I rented out every year for 13 weeks. I have thus experienced, as an owner of two distinct properties, rental programs from all directions.

Beech has never experienced such a jump in sales or such an explosion in the number of owners buying for investments, planning to rent. Vacation renting can be a very complicated experience. Most of our new owners are not savvy to this new world of renting their properties. This is very clearly evidenced by the plethora of questions they are posting on social media and the destruction left in the wakes of some renters.

The behavior of many renters this winter is/was, in plain words, not acceptable. BUT, in most cases, the responsibility for this chaos falls on the companies that manage the rentals.

Remedy??? There should be a committee with a rep from the major companies that handle these cabins/homes: VRBO, Evolve, Airbnb, and the largest local companies that handle rentals. This unacceptable behavior must be addressed. The angst between renters and the town with its full-time residents must be resolved!

Of course, we appreciate the renters' love for our sweet town and the economic boom they bring; but there has to be respect for others and rules that everyone must follow.

I am willing to help in any way I can such as forming a committee and reporting findings to the town council.

Julie Grindstaff  
101 Courtside Lane A5  
Beech Mountain, NC 28604  
704-572-0112  
**From:** JULIE GRINDSTAFF <[grndstffj@aol.com](mailto:grndstffj@aol.com)>  
**Sent:** Wednesday, February 24, 2021 2:19 PM  
**To:** Tamara Mercer <[clerk@townofbeechmountain.com](mailto:clerk@townofbeechmountain.com)>

**From:** T. Barry <[tbwritewing@hotmail.com](mailto:tbwritewing@hotmail.com)>  
**Sent:** Sunday, February 21, 2021 4:29 PM  
**To:** Jimmy Accardi <[jaccardi@townofbeechmountain.com](mailto:jaccardi@townofbeechmountain.com)>; Barry Kaufman <[bkaufman@townofbeechmountain.com](mailto:bkaufman@townofbeechmountain.com)>; Erin Gonyea <[egonyea@townofbeechmountain.com](mailto:egonyea@townofbeechmountain.com)>; Kelly Melang <[kmelang@townofbeechmountain.com](mailto:kmelang@townofbeechmountain.com)>; Weidner Abernethy <[wabernethy@townofbeechmountain.com](mailto:wabernethy@townofbeechmountain.com)>  
**Cc:** Bob Pudney <[rpudney@townofbeechmountain.com](mailto:rpudney@townofbeechmountain.com)>; Preston Yates <[planner@townofbeechmountain.com](mailto:planner@townofbeechmountain.com)>  
**Subject:** ravaged by pigs

Dear Council Members,

Our town is being ravaged by pigs. That's insulting to pigs, I know. Let's just say that, if our town became infested with wild boars, killer bees, or rabid dogs, we would do something about it.

I just returned from the Convenience Center where the attendant, holding a bunch of fake passes, looked disgusted. Sympathizing, I asked if it was a hard day. He told me people were being so rude and messy.

Yes!! It is rude to yell at the attendant and to mistreat town employees. It is rude to put trash in the trash bins of others; it is rude to litter. It is rude to trespass.

You will be meeting soon to discuss the problem of trash, which is totally the result of the infestation of slobs. Please do not mandate bear "proof" trash bins for everyone - for rentals maybe - but not for everyone. I can email you multiple photos of local bins open and overflowing with trash. These bins are only as good as the people using them and as good as the average bears. Multiple articles are available about above average bears.

After being guests here in 1982, we were summer renters from 1983 to 1993 when we built this house, where we now live full-time. I mention this as evidence that I am not anti renters. I am anti slobs.

The plethora of renters and visitors is great for business support and revenue. At what point, however, do residents and town employees feel they are being sacrificed on the altar of tourism? It would be a shame if full-time residents,

Page 3 of 10

whose contributions are beyond only financial, eventually feel pushed out by renters.

I am very much a proponent of less government. I know it is not possible to legislate manners or to dictate who rents and who comes to visit. That said, we have a problem. Here's a link to an article about over tourism to spur thoughts on this matter.

<https://www.cntraveler.com/galleries/2015-06-19/barcelona-bhutan-places-that-limit-tourist-numbers>

[15 Beloved Places Struggling With Overtourism | Condé Nast Traveler](#)

The problem: Nearly 2.5 million people visited the massive 12th-century Hindu temple complex in 2017, up 12 percent over 2016, The Phnom Pehn Post reports. For the most part, visitors are crowding ...

[www.cntraveler.com](http://www.cntraveler.com)

Thank you for your time and for considering solutions to our problem.

Thérèse D. Barry  
100 Squirrel Ln.  
Beech Mtn  
Willie Wagner  
206 North Pinnacle Ridge Road

2/25/2021

Trash bins and rental properties:

After a winter of increase in rental homes due to the large amount of sales in 2020 the town is at a point where drastic measures must be taken around rentals and disposal of trash. I would like for the town to aggressively identify all rental properties within the town so we can make sure we are collecting all the fees due. I believe we need to enact and enforce a rule that all rental properties are required to have a bear proof trash bin that meets town standards within 90 days or the town will purchase and install a bin and bill the owner. Then going forward property sold as income producing property if it does not have a bear proof trash bin must have one installed prior to close.

I would like to add that David said if they didn't install the required trash bin turn their water off!! That would get their attention.

Anyway, now that the snow has melted I feel like we are living in a landfill!

Sent from my iPhone  
Loretta Wagner <lw1820@msn.com>

**5. TOPIC SOLID WASTE- PUBLIC WORKS UTILITY DIRECTOR DANIEL DAVIS AND SANITATION DIRECTOR, MATTHEW CLAWSON**

5.1. Mr. Pudney presented information regarding the Town's issue with the

current sanitation system. He requested direction from Council as we move forward with next year's fiscal year budget. He would offer up the information and add suggested options as to our procedures, as the current system is not working on the mountain. With the population growth the mountain is experiencing an increase in garbage tonnage trash. We are analyzing the methods of dealing with residential and commercial garbage on the mountain and at the Convenience Center, and after Council's consideration, Mr. Pudney said he will work on the costs for following that direction.

Staff has estimated of some of these costs although they are not exact quotes in the presentation, Mr. Pudney feels they are good estimates. There has been a 20% increase of the solid waste tonnage. Last year the procedures were changed at the Convenience Center requiring users to have a sanitation placard. This was to mitigate that tonnage of garbage as people who did not pay for the service were using the facility. He explained how it was determined for those not paying for the service. We audited the areas of waste collection and found for example, a multi-family apartment building which had 10 units but only one water meter, so the residential units were not paying their fair share based on the tonnage of garbage for families of 10 dwellings with a bill for only 1 family. The invoice billing was for one residential rate, but the other 9 dwellings had free trash collection. Understandably, since the audit the town has received complaints as they were not previously paying, noted Mr. Pudney.

The current system is a hybrid system, wherein last fall of 2020, we adopted the solid waste ordinance which allows for the metal bear resistant bins and the wooden bins, which means the homeowner can decide. We required the placards in order to dump garbage at the Convenience Center, and we allowed for people to purchase the \$5.00 single-use placards which are sold at Fred's Mercantile and at Town Hall.

Mr. Pudney broke down the problems into the groups of properties and their uses. There are the single-family dwellings, which does not rent to visitors. Homes which are not short-term rentals. They are full time residents, or they spend seasons up here on Beech Mountain. He said those homeowners know the system and have a placard and also use their bins. Some still use the wooden bins and the curbside pick-up. They put trash out on the morning or day of their designated day for pick-up. These people are happy that others are finally paying their fair share.

The other group of property owners are homeowners who are renting out their homes, mostly short-term rentals, some are professionally managed but some are not.

The professionally managed by a property manager, these homeowners received a temporary placard, and they are happy that they needed additional short-term placards, as they are busy privately managed STR, but the Airbnb or VRBO homeowners are trying to manage their STR by themselves. In this business model, they were requiring their renters to remove trash after the vacation stay. The renter takes the placard and the garbage to the dump and quickly that placard is lost. These people have no sufficient instructions by owners as to the procedures for renters. The bulk of the problem is that renter

is skiing, dining, hiking, and biking on a weekend mountain trip and the bag of trash cannot be disposed. So, they go to buy a temporary pass at Fred's for \$5. The employees have angry renters in the store, or the renters are causing conflicts with the Town's employees at the dump. The Town's Police Officers get involved because Staff have also been threatened and/or the renters throw garbage off the mountain as they are leaving. This is a disconnect between the property owners and the renters, in fact some property owners have no arrangements at all of how to properly dispose of trash on the mountain. There is a disconnect.

There is an increase of garbage fines to property owners, and we can use the fines to get owners to install bear proof bins. These owners should allow town sanitation services to pick-up at curbside trash collection because when property owners could install bear proof bins. The renters dispose of trash in bear proof containers, and it is money well spent. The system would then be working.

Mr. Pudney said our best option is to increase the curbside sanitation pick-up. This reduces the number of people who do not know the procedures for the Convenience Center, and the town sanitation crew handles the garbage one time, at one point of collection. We need to be able to increase curbside pick-up and require the short-term rentals (STRs) to have a metal bear proof bin.

The Manager's Office has reached out to our regional benchmark towns to research the surrounding area's methods of sanitation. Sugar Mountain passed an ordinance, effective December 31, 2020. The ordinance requires STRs to install bear resistance bins and the push back on the requirement has been minimal, noted Mr. Pudney. The town of Sugar Mountain is in a similar situation as Beech Mountain.

Mr. Pudney suggested that residential pick-up services be occurring twice a week. If we consider twice a week curbside pick-up for residential, that will mean we need a smaller sanitation truck. He reviewed costs for the equipment. We would purchase smaller route trucks and need additional manpower for the twice a week service.

Mr. Pudney stated that the sanitation contractor other town's use in our area is Republic Enterprises. Mr. Davis reviewed that contractor's basic estimates for service. Republic Enterprises can perform both the residential and commercial business services.

The contractor JDS was a firm used by the town years ago, and due to problems and issues then, the town got into the garbage business, this was because the service by JDS was not good. Mr. Pudney added that there was not quick enough service responses back then when there were many problems with the commercial business garbage collection.

Mr. Pudney passed out a photograph of a sanitation worker and the garbage compactor. He said injuries and close calls are a factor when unloading dumpsters. Equipment crashes have happened. He said we need to

change this system, as it is hazardous, inefficient, and we cannot keep bears out of the Convenience Center. He explained the equipment to be used and procedures for this suggested plan. The 8-yard cube does not have lids and has resistant openings which stops people from illegally dumping, for example this type of unit is what the Pinnacle Inn uses. This would entail a change to the sanitation operations. The Manager's Office is concerned with employee safety, efficiency and cost-effective operations.

Mr. Pudney reviewed the process and expenses with purchasing and implementing sanitation trucks with front end loaders, the 8-yard cube container requirements, and the expenses which would be passed onto the taxpayers. The sanitation fund is funded by the rates charged to customers. The department budget is paid for by these fees.

He noted that switching the operations over to do it ourselves would be expensive, approximately one-million-dollars to put in place and if we are in the garbage business then we would implement the system to include the businesses and commercial collections. Republic Enterprises would contract with the town for the commercial side of operations. There would be a capital expenditure savings if we do not have to buy 50 containers. Mr. Pudney said the downside is that Republic will not contract with the businesses individually, but they will contract with the town to include services to commercial businesses. We would still be in the trash business.

In response to Councilmember Abernethy's question, Mr. Pudney replied that Republic stated that they would not contract with the businesses individually as then the rates would be higher. For the quoted rate, they want to work with the town and not directly with the commercial customers.

There was further discussion on the Convenience Center, recycling and compactors, truck equipment, the tonnage of trash, operations, and costs. Banner Elk contracts with Republic Enterprises. Sugar Mountain requires their bins to be bear resistance and curbside pick-up is once a week. Seven Devils does not supply garbage service. Blowing Rock provides trash service in-house but there is not a convenience center.

Mr. Pudney requested direction from Council, and he reiterated the aforementioned points on the topic. He said next year, we can assess the program and recommend new hours of operation at the Convenience Center based on how this transitions with the service. We may even reduce the days and hours at the recycling/ dump.

There was a further question and answer period reviewing the costs for commercial services as a contract with the private company versus the costs for commercial services and equipment to run commercial garbage services ourselves. The process, procedures, and other option details were reviewed. Mr. Pudney added that staff is implementing and using the rate model to determine the budget by plugging in the numbers to give us expenses and costs.

Mayor Kaufman was concerned with the private company not responding

to the many problems with weather on the mountain. There are many hybrid systems out there now and we do not have consistency now.

Mr. Pudney said the last option would be to keep the system as is, which is not cost free. We have a rear load truck that must be replaced this year. Other equipment has broken down and cannot be repaired, we must purchase new trucks. Safety and the current manner with which we are operating puts employees at risk. Councilmember Abernathy said and there needs to be a second dumpster for commercial use.

Vice Mayor Accardi asked the Public Works Directors, Daniel Davis, and Matthew Clawson for their input. Mr. Davis said the manager has provided the other options, but either way Public Works is prepared to implement the plan as decided by Council. He has seen employees being yelled at and we need to stop the violence and conflicts at the Convenience Center. We do not have the infrastructure to support the services needed for the residential growth being experienced on the mountain. We need improve the system. Costs for dumping are ever increasing, recycling costs are increasing and requires more staff to run smoothly. Commercial business growth means Public Works needs additional personnel and pick-up service. Public Works Department staff is in the middle of rental and tourism trash conflicts. Is the Town of Beech Mountain in the trash business or not, so Mr. Davis looks to Council to get direction as to what is the job that we do? He reiterated that we are either a full-service provider or should we contract it out.

After further discussion by the Council members, Mr. Pudney said he would follow-up with receiving contractor estimates. He suggests using Republic Enterprises for commercial services and for servicing the multi-family units. They will look at equipment costs and staff will continue to research the topic and present those findings later to Town Council. The Town can maintain curbside service pick-up but at twice a week. The Manager's Office will work with the Attorney's Office on a proposed ordinance. He pointed out that currently the crews do clean up messes and we will continue to do so in the event of problems.

## **6. TOWN COUNCIL COMMENTS**

- 6.1.** Vice Mayor Accardi was concerned with troubleshooting problems and he gave an example such as the contractor Republic does not collect the garbage from a business, can the business still bring the garbage to the Convenience Center in the event their collection was interrupted due to weather or other issues. He requested a consensus from our business owners and condo owners as to which service they prefer and if they are willing to pay the costs. Mr. Pudney replied that he would contact the businesses and multi-family Associations to find out their responses.

He stated that we would conduct up-front public education of the system, its costs, and procedures. He again discussed volume tonnage, rates, tipping fees, and the CPI, Capital Project Index. The contract costs with Republic Enterprise and the costs for these services to be taken over by the contractor. Republic is requesting the town enter into a five-year contract.

Councilmember Gonyea surmised that Republic Enterprises must be successful in order to remain in business servicing the commercial businesses so we can request their current customers input and reviews. Mr. Pudney added that if the town takes over the commercial services, then the commercial rates will go up substantially in order to implement the program, if Republic collects the commercial garbage then the costs would be close to the current fees.

Councilmember Abernethy wondered if letting the businesses and condos discuss this issue it would take months, he did not believe the town should spend \$720,000 to implement another garbage program. We should see if Republic would have any flexibility on the five-year contract. It should be less time and if it is not working, then we should be able to change the contract.

Mr. Pudney inquired if Council wished to provide a twice a week residential curbside garbage pick-up and to require rentals to install bear resistant bins, and larger STR houses to have extra bins as well as the privately managed and professionally managed rentals to have bear resistant bins.

Vice Mayor Accardi that as to the commercial services, if Staff could research the business community and if their input was favorable to using Republic, then he would support using Republic. Councilmember Abernethy agreed and added that we should pole the business who currently use Republic to see if they are happy with the service. The larger businesses on Beech wants growth, then Republic would be the way forward as well as receiving input from the condo HOAs as Vice Mayor Accardi and Councilmember Gonyea suggested. Mr. Pudney replied that he will have an answer and a proposal by next month's March Council meeting.

Councilmember Melang noted that she had all the information needed and was in agreement with the direction the manager and staff would take, to which Councilmember Abernethy affirmed his agreement. He added that staff should contact all the businesses and HOAs for the multi-family units referenced to poll their opinions.

## **7. ADJOURNMENT**

- 7.1. Mayor Kaufman reiterated that whether we like it or not, the town is in garbage business. The manager's office will build the estimated costs into the budget process for Council's review at the next budget retreat.

There being no further business, he asked for an adjournment at 3:55 p.m.

Note: the minutes are not a verbatim record of the proceedings.

### **Motion**

Kelly Melang made a motion to adjourn the work session and Erin Gonyea seconded the motion. CARRIED. unanimously.

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Town Clerk

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Mayor, Town of Beech Mountain



## COUNCIL ACTION ITEM

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**TO:** Town Council  
**FROM:** Steve Smith  
**DATE:** April 13, 2021  
**SUBJECT:** FY 2021 Budget Ordinance Amendment #4

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**FOR THE PURPOSE OF:**

To amend the current budget in the General Fund for the addition of a radio station to broadcast local information, play ground at dog park and trail construction equipment, all funded by a contribution of \$137,117 from Beech Mountain Tourism and Development Authority. Police Department equipment upgrades funded by a private donor for \$257,146. And a operational short fall due to unexpected events in the Recreation Department of \$67,500. Also included is a Fee Schedule change to the Planning and Inspections Departments. Items in red are proposed for increase. In the Water and Sewer Fund to amend the Taps and Systems Department for the replacement of a dump truck deemed a total loss. And in the Police Special Revenue Fund to account for a donation and the transfer to the General Fund.

**ATTACHED FOR YOUR CONSIDERATION:**

Budget Amendment # 2021-04  
Planning and Inspections Excerpt from the Fee Schedule

**STAFF RECOMMENDATION:**

Approve amendment as presented

**SIGNATURES:**

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Town Manager

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Town Clerk



E.	EXPENDITURES	
	1. To provide for increases and/or (decreases) in existing Funds:	
	a. Water Sewer Utility Fund:	
	1. Taps & Systems Capital Outlay	76,745
	<b><u>TOTAL ADJUSTMENT TO EXPENDITURES</u></b>	<b><u>\$ 76,745</u></b>
F.	REVENUES	
	2. To provide for adjustments to revenues:	
	b. Water Sewer Utility Fund:	
	1. Insurance Proceeds	<u>76,745</u>
	<b><u>TOTAL ADJUSTMENT TO REVENUE</u></b>	<b><u>\$ 76,745</u></b>
G.	<b>FY 2020 – 2021 Water Sewer Utility Fund Original Budget</b>	\$2,451,020
	<b>FY 2020 – 2021 Amendment #1</b>	-
	<b>FY 2020 – 2021 Amendment #4</b>	76,745
	<b>FY 2020 – 2021 Amended Budget</b>	<b><u>\$2,527,765</u></b>
H.	EXPENDITURES	
	1. To provide for increases and/or (decreases) in existing Funds:	
	a. Special Police Revenue Fund:	
	1. Transfer to General Fund	\$ 257,146
	2. Other (Transfer to Fund Balance)	<u>42,854</u>
	<b><u>TOTAL ADJUSTMENT TO EXPENDITURES</u></b>	<b><u>\$ 300,000</u></b>
I.	REVENUES	
	1. To provide for adjustments to revenues:	
	a. Special Police Revenue Fund:	
	1. Donation Proceeds	\$ 300,000
	<b><u>TOTAL ADJUSTMENT TO REVENUE</u></b>	<b><u>\$ 300,000</u></b>

J. <b>FY 2020 – 2021 Special Police Revenue Fund Original Budget</b>	\$ 2,000
<b>FY 2020 - 2021 Amendment #4</b>	300,000
<b>FY 2020 – 2021 Amended Budget</b>	<u>\$302,000</u>

APPROVED THIS THE 13<sup>TH</sup> DAY of April 2021

\_\_\_\_\_  
Tamara Mercer, Clerk

\_\_\_\_\_  
Barry Kaufman, Mayor

## Building Inspections and Planning

Type of Service	Unit Description / Detail	2018-2019	2019-2020	2020-2021
<b>GENERAL CONSTRUCTION</b>				
<i>New Residential Heated Construction (NCRC)</i>	<i>Per square foot</i>	\$0.30	\$0.30	\$0.40
New Residential Unheated Construction (NCRC)	Per square foot	\$0.15	\$0.15	\$0.20
Non-Residential Zoning Permit and Compliance		\$180	\$180	\$200
New Non-Residential Construction-Heated (NCBC)	Per square foot	\$0.25	\$0.25	\$0.45
New Non-Residential Construction-Unheated (NCBC)	Per square foot	\$0.15	\$0.15	\$0.25
<b>New Modular Construction – Heated</b>	<b>Per square foot</b>			\$0.30
Deck Construction (up to 500 square feet)		\$75	\$75	\$90
Deck Construction (over 500 square feet)	\$75 plus-.10/each square foot over 500	\$0.09	\$0.09	\$0.10
Deck Roof Construction (up to 500 square feet)		\$50	\$50	\$75
Deck Roof Construction (over 500 square feet)	\$50 plus-.10/each square foot over 500			\$0.10
Detached Garage or Accessory Building (up to 500 sq. ft.)	Over 500 sq. ft. see new construction fee	\$75	\$75	\$90
<b>UTILITY AND TRADE</b>				
System Development Fee ( <i>Water</i> )	Determined by “Intended Use” Calculator		35%	70%
System Development Fee ( <i>Sewer</i> )	Determined by “Intended Use” Calculator		35%	70%
Sewer Tap Fee		\$1,000	\$1,000	\$1,500
Water Tap Fee		\$1,000	\$1,000	\$1,500
Pavement Cut		\$200	\$200	\$1,000
<b>SITE AND MISCELLANEOUS</b>				
<b>Site Alteration or Grading Permit (retaining walls &lt;5’)</b>	<b>Per acre or part thereof</b>			\$50
<b>Retaining Walls</b>	<b>\$50 – plus \$5 per foot above 5 feet</b>			\$50
Residential Driveway Permit		\$25	\$25	\$35

## Building Inspections and Planning

Type of Service	Unit Description / Detail	2018-2019	2019-2020	2020-2021
Non-Residential Driveway Permit		\$50	\$50	\$65
Inspection/Reinspection Fee	Per inspector per visit	\$50	\$50	\$75
Demolition Permit (requires bond)	Per square foot (minimum \$50)			\$0.05
Selective Demolition/Investigation Permit				\$25
Manufactured Home	Single wide	\$75	\$75	\$150
Manufactured Home	Double wide	\$100	\$100	\$200
Manufactured Home	Triple wide	\$150	\$150	\$300
<b>ZONING AND LAND USE</b>				
Site Plan Review – Commercial Projects up to 0.5 acre		\$200	\$200	\$250
Site Plan Review – Commercial Projects over 0.5 acre	\$250 plus \$100 per acre of development	\$1,100	\$1,100	\$100
Site Plan Review – Commercial Projects in WSWP Overlay	Base fee plus \$25 per acre or part thereof			\$25
Site Plan Review – De minimis Projects				\$50
Exempt Lot Division/Combination Review				\$25
Plat Review Minor Sub-Division	Requires 3 copies of the final plat	\$20	\$20	\$50
Plat Review – Up to 10 Lots		\$250	\$250	\$225
Plat Review – Over 10 Lots	\$250 plus - \$50 for each lot over 10	\$50	\$50	\$75
Subdivision Fees – Minor		\$100	\$100	\$125
Subdivision Fees – Major		\$750	\$750	\$1000
Subdivision Fees – Per Lot		\$50	\$50	\$75
Subdivision – Minor – Water Supply Watershed Review				\$50
Subdivision – Major – Water Supply Watershed Review	\$5 per acre in Watershed Overlay (min. \$50)			\$50

### Building Inspections and Planning

Type of Service	Unit Description / Detail	2018-2019	2019-2020	2020-2021
Rezoning Request – Conventional District up to 10 acres		\$300	\$300	\$350
Rezoning Request – Conventional District over 10 acres	\$350 plus \$5 per acre over 10			\$5
Rezoning Request – Conditional District up to 10 acres		\$500	\$500	\$550
Rezoning Request – Conditional District over 10 acres	\$550 plus \$5 per acre over 10			\$5
Zoning Ordinance Text Amendment	Per section or chapter			\$250
Variance Request		\$350	\$350	\$400
Special Use Permit – Minor Modification				\$200
Special Use Permit – Major Modification		\$600	\$600	\$450
Special Use Permit – 6-month extension	Maximum of 2 extensions			\$300





## RESOLUTION

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**TO:** Town Council  
**FROM:** Daniel Davis  
**DATE:** April 13, 2021  
**SUBJECT:** Water and Wastewater Systems Capital Improvements Plan

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**FOR THE PURPOSE OF:**

To adopt the recommended Water and wastewater Systems Capital Improvements Plan

**ATTACHED FOR YOUR CONSIDERATION:**

Resolution to consider and adopt the recommended water and wastewater systems capital improvements plan  
Water and Wastewater Systems Capital Improvements Plan

**STAFF RECOMMENDATION:**

To adopt the recommended plan

**SIGNATURES:**

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Town Manager

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Town Clerk



Resolution

Town of Beech Mountain  
North Carolina

Date: 4/13/2021

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A RESOLUTION TO CONSIDER AND ADOPT THE RECOMMENDED WATER AND  
WASTEWATER SYSTEMS CAPITAL IMPROVEMENTS PLAN –  
FISCAL YEAR 2021 THROUGH FISCAL YEAR 2036  
Resolution No. 2021-02

WHEREAS the Town of Beech Mountain recognizes that a Capital Improvements Plan (CIP) enables staff and the Council to plan for needed improvements; and

WHEREAS the Capital Improvements Plan is a ten to twenty year planning tool designed to help the Town plan for the repair, replacement, and acquisition of capital items; to assist in financial planning; to ensure better coordination and evaluation of projects; to provide necessary lead time for project planning, permitting, and design; and to maintain or improve the Town's credit rating and fiscal health; and

WHEREAS the Recommended Water and Wastewater Systems Capital Improvements Plan – Fiscal Year 2021 through Fiscal Year 2036 will assist the Town in meeting its goal of providing quality water and wastewater service to its citizens while maintaining reasonable fees for the service; and

WHEREAS the Recommended Water and Wastewater Systems Capital Improvements Plan Fiscal Year 2021 through Fiscal Year 2036 updates the last adopted CIP; and

WHEREAS adjustments for anticipated projects can also be made each year during the annual revision of the Town's budget.

THEREFORE, BE IT RESOLVED that the Town of Beech Mountain Town Council approves the Recommended Water and Wastewater Systems Capital Improvements Plan – Fiscal Year 2021 through Fiscal Year 2036 and adopts this Capital Improvement Plan.

Adopted this the 13<sup>th</sup> day of April, 2021 at Beech Mountain, North Carolina.

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(Barry Kaufman, Mayor)

ATTEST:

\_\_\_\_\_  
(Tamara Mercer, Town Clerk CMC NCCMC)

**Town of Beech Mountain  
Water and Wastewater Systems Capital Improvements Plan**

Fiscal years 2021 through 2036

On/Off	Project	ater & Sewer Fund Categ	Fund / Revenue Source	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
Off	<b>Description - Water Plant</b>																								
On	Generator: Parkway PS	Water Plant	Water and Sewer Fund																						
On	Reservoir Gate Replacement	Water Plant	Water and Sewer Fund																						
On	Supplemental Supply Wells	Water Plant	Water and Sewer Fund																						
On	Lake Bypass Pumping System	Water Plant	Water and Sewer Fund			250,000																			
On	Storage Tank Recoating: Emerald Mtn; 116kgal	Water Plant	Water and Sewer Fund					101,500																	
On	Storage Tank EXTERIOR Recoating: Meadows 1; 200kgal	Water Plant	Water and Sewer Fund										95,250												
On	Storage Tank Recoating: Summit	Water Plant	Water and Sewer Fund																						
On	Storage Tank Recoating: Clearwell	Water Plant	Water and Sewer Fund																						
On	Storage Tank Recoating: Pinnacle; 300kgal	Water Plant	Water and Sewer Fund			127,250																			
On	Storage Tank Recoating: Spruce Hollow; 200kgal	Water Plant	Water and Sewer Fund																						
On	Storage Tank Recoating: Parkway; 100kgal	Water Plant	Water and Sewer Fund								95,250														
On	Storage Tank Recoating: Ashwood; 100kgal	Water Plant	Water and Sewer Fund														104,500								
On	Storage Tank Recoating: Mill Pond; 100kgal	Water Plant	Water and Sewer Fund																			107,500			
On	Pinnacle Well House Installation	Water Plant	Water and Sewer Fund	50,000	350,000																				
On	Additional Well Improvement	Water Plant	Water and Sewer Fund		100,000	350,000																			
On	Locust Ridge Road Well Improvement	Water Plant	Water and Sewer Fund	50,000	450,000																				
On	Emergency Water Source - Lake Coffee	Water Plant	Water and Sewer Fund				10,000,000																		
On	RAW Water Intake	Water Plant	Water and Sewer Fund							16,000,000															
Off	<b>Description - Wastewater Plant</b>																								
On	Grassy Gap Treatment Plant Replacement	Wastewater Plant	Water and Sewer Fund						1,212,840																
Off	<b>Description - Water Main</b>																								
On	Funded 2018: Water Main Improvements; 17,000LF	Water Main	Water and Sewer Fund	1,740,000																					
On	Service Line Replacement Program	Water Main	Water and Sewer Fund	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	
On	6" Ski Loft Road; 2,700 LF	Water Main	Water and Sewer Fund																						
On	6" Arrwood and Hawthorne Road; 3,900 LF	Water Main	Water and Sewer Fund																						
On	6" Greenbriar Road Area; 7,400 LF	Water Main	Water and Sewer Fund																						
On	6" Chestnut Way; 4,500 LF	Water Main	Water and Sewer Fund																						
On	6" Lakeledge Circle; 4,200 LF	Water Main	Water and Sewer Fund																						
On	PRV PROJECT (FUTURE PURCHASE)	Water Main	Water and Sewer Fund																						
On	Contracted Service Line Rehabilitation	Water Main	Water and Sewer Fund																						
On	Install blow off valves; 32 locations	Water Main	Water and Sewer Fund																						
Off	<b>Description - Sewer Main</b>																								
On	Funded 2018: Sewer Main Improvements 8"SM 7,800LF; 12"SM 9,600LF	Sewer Main	Water and Sewer Fund	2,200,000																					
On	2022 Sewer Main Improvements; 8" SM, Approx. 10,000LF	Sewer Main	Water and Sewer Fund		1,874,000																				
On	8" Pond Creek Basin T0336 4,500LF Sewer, 18 MH	Sewer Main	Water and Sewer Fund									567,500													
On	8" Pond Creek Basin T0334; 4,800LF 8" Sewer, 25 MH	Sewer Main	Water and Sewer Fund											638,100											
On	8" Grassy Gap Basin T0339; 3,000LF Sewer, 30 MH	Sewer Main	Water and Sewer Fund														445,800								
On	8" Pond Creek Basin T0443; 3,000LF Sewer, 30 MH	Sewer Main	Water and Sewer Fund																						
On	8" Grassy Gap Basin T0340; 2,800LF Sewer, 22 MH	Sewer Main	Water and Sewer Fund															459,000							
On	8" Pond Creek Basin T0335; 2,600LF Sewer, 20 MH	Sewer Main	Water and Sewer Fund																			419,500			
On																							388,500		
Off	<b>Description - Equipment</b>																								
On	2012 Ford F-350, Utility Bed and Crane (Car 12)(10 year cycle)	Equipment	Water and Sewer Fund			70,000																			
On	2018 Nissan Frontier Quad Cab (Car 2)(7 year cycle)	Equipment	Water and Sewer Fund							32,000															
On	2006 International Short Wheel Base dump 4x4(Car 14)(10 year cycle)	Equipment	Water and Sewer Fund																						
On	2018 Ford F-150 (Car 20)(7 year cycle)	Equipment	Water and Sewer Fund																						
On	2007 Sterling Vac Truck (Car 35)(15 year cycle)	Equipment	Water and Sewer Fund																						
On	2011 Ford Escape 4 Door(Car 40)(7 year cycle)	Equipment	Water and Sewer Fund																						
On	2007 Caterpillar 297C Skid-Steer (Car 70) (15 Year)	Equipment	Water and Sewer Fund			30,000																			
On	2018 Case Backhoe (Car 7)(10 year cycle)	Equipment	Water and Sewer Fund							70,000															
On	2020 Chevrolet Silver	Equipment	Water and Sewer Fund	76,745																					
On	T-10 Water Leak Detection Device	Equipment	Water and Sewer Fund																						
On	WTP Turbidimeters Upgrade	Equipment	Water and Sewer Fund																						
On	Nuptune 360 automated meter radio read sites at 15k per	Equipment	Water and Sewer Fund				15,000																		
On	Ashwood Floor rebuild	Equipment	Water and Sewer Fund																						
On	Sewer Pipe video inspection Eg	Equipment	Water and Sewer Fund																						
On	Distribution System Flow Monitoring devices	Equipment	Water and Sewer Fund																						
On	Klonteska Pump Station Security Fence Repair	Equipment	Water and Sewer Fund																						
On	Pond Creek Overflow Weirs	Equipment	Water and Sewer Fund																						
On	Transit Van to Replace 2012 Service Truck	Equipment	Water and Sewer Fund																						
Off	Trash Pump 4" (15 Year Cycle)	Equipment	Water and Sewer Fund																						
Off	<b>Summary</b>																								
	General Fund - Pay-Go																								
	General Fund - Debt																								
	Water and Sewer Fund - Pay-Go			291,745	1,215,000	382,750	170,000	333,500	347,840	100,000	315,000	667,500	195,250	638,100	196,500	445,800	104,500	459,000	915,500						
	Water and Sewer Fund - Debt			3,940,000	1,874,000	4,000,000	10,000,000		1,000,000	16,000,000															
	Sanitation Fund - Pay-Go																								
	Sanitation Fund - Debt																								
	W&S Capital Reserve Fund																								
	<b>Total</b>			<b>4,231,745</b>	<b>3,089,000</b>	<b>4,382,750</b>	<b>10,170,000</b>	<b>333,500</b>	<b>1,347,840</b>	<b>16,100,000</b>	<b>315,000</b>	<b>667,500</b>	<b>195,250</b>	<b>638,100</b>	<b>196,500</b>	<b>445,800</b>	<b>104,500</b>	<b>459,000</b>	<b>915,500</b>						

Note:



## RESOLUTION

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**TO:** Town Council  
**FROM:** Daniel Davis  
**DATE:** April 13, 2021  
**SUBJECT:** Authorizing Resolution Application for Funding

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**FOR THE PURPOSE OF:**

Part of the process to acquire funding for water and sewer systems projects.

**ATTACHED FOR YOUR CONSIDERATION:**

Authorizing Resolution

**STAFF RECOMMENDATION:**

Approve as presented

**SIGNATURES:**

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Town Manager

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Town Clerk

**TOWN OF BEECH MOUNTAIN  
AUTHORIZING RESOLUTION  
APPLICATION FOR FUNDING FROM NC DEQ  
DIVISION OF WATER INFRASTRUCTURE FOR A  
DRINKING WATER IMPROVEMENT PROEJCT**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, The Town of Beech Mountain has need for and intends to construct a drinking water system project described as the **2022 Water System Rehabilitation Project**; and

WHEREAS, The Town of Beech Mountain intends to request State funding assistance for the project (loan, forgivable principal, and/or grant).

**NOW THEREFORE BE IT RESOLVED, BY THE BEECH MOUNTAIN TOWN COUNCIL:**

That the Town of Beech Mountain, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the Town Council of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Beech Mountain to make scheduled repayment of the loan, to withhold from the Town of Beech Mountain any State funds that would otherwise be distributed to the Town of Beech Mountain in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Robert Pudney, Town Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with

all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 13<sup>th</sup> day of April, 2021 at Beech Mountain, North Carolina.

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Barry Kaufman, Mayor

**CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting Clerk of the Town of Beech Mountain does hereby certify: That the attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Beech Mountain Town Council duly held on the 13<sup>th</sup> day of April 2021; further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Tamara Mercer, Town Clerk



## RESOLUTION

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**TO:** Town Council  
**FROM:** Preston Yates  
**DATE:** April 13, 2021  
**SUBJECT:** Resolution Opposing SB 349/HB 401 and HB 291

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**FOR THE PURPOSE OF:**

A Resolution to oppose the North Carolina General Assembly consideration of two bills: SB 349/HB 401 Increase Housing Opportunities (short title) and HB 291 Building Plan Approval - Certain Commercial Property (short title).

**SIGNATURES:**

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**Town Manager**

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**Town Clerk**



Resolution

Town of Beech Mountain  
North Carolina

Date: 4/13/2020

**TOWN OF BEECH MOUNTAIN**

**A RESOLUTION OPPOSING NORTH CAROLINA GENERAL ASSEMBLY  
SB349/HB401 INCREASE HOUSING OPPORTUNITIES AND HB291  
BUILDING PLAN APPROVAL – CERTAIN COMMERCIAL PROPERTIES**

**Resolution No. 2021-\_\_\_\_**

**WHEREAS**, the Town of Beech Mountain is a Municipal Corporation and political subdivision of the State of North Carolina; and

**WHEREAS**, the Town of Beech Mountain desires to maintain a high standard for the quality of life for its citizens, visitors, and guests; and

**WHEREAS**, the Town of Beech Mountain recognizes the importance of local zoning authority to the peace and prosperity of North Carolina's municipalities, for generations the State of North Carolina has allowed municipalities to regulate local development; and

**WHEREAS**, the Town of Beech Mountain is a rural, mountain community with its own unique land use needs, challenges, and opportunities such that a "one size fits all" approach may have significant detrimental unintended impacts to the residents; and

**WHEREAS**, the Town of Beech Mountain is a master-planned, mountain resort community with a street network and water/sewer infrastructure designed and developed for low-density residential; and

**WHEREAS**, SB 349/HB 401 are now pending in the North Carolina General Assembly, and would force municipalities to allow duplexes, triplexes, quadplexes, and townhouses into all residential zones, including low-density zoning districts, for the stated purpose of expanding housing opportunities; and

**WHEREAS**, SB 349/HB 401 exempt residential areas in which private restrictive covenants apply, thus differentiating between subdivisions, such as

gated communities, and the neighborhoods without such protections, in essence protecting the wealthy by exposing middle and low income residents to incompatible development dictated by state government; and

**WHEREAS**, although SB 349/HB 401 has reportedly been endorsed by “affordable housing” proponents as a way to increase supply and decrease costs, there is nothing in the bill that actually controls costs; and

**WHEREAS**, SB 349/HB 401 has the potential to fundamentally alter almost all neighborhoods in the Town of Beech Mountain and accelerate the disruption of the lives of its residents and visitors, as out-of-town investors and short-term rental operators continue to acquire low-density housing stock; and

**WHEREAS**, SB 349/HB 401, under the pretense of creating affordable housing, is in fact a usurpation of local zoning authority and if passed, will undermine the long-term prosperity and stability of the Town of Beech Mountain for its residents, betraying the promises of zoning which residents have relied upon in making their most important financial investments, the purchase of their homes; and

**WHEREAS**, HB 291 is also pending in the North Carolina General Assembly and would force municipalities to complete an “initial plan review” of commercial development plans initially sealed by a design professional, without regard to the plan’s complexity, deficiencies, or impacts to health and safety, within 15 days, and issue permits within 30 days of the application for development, unless additional information is requested within the first 15 days; and

**WHEREAS**, HB 291 provides that if within the initial 15 day period, if additional information is requested by the Town, permits must be granted within 15 days of the submission of additional information or the developer may retain a “third party firm” to review its plans at the expense of the municipality and must issue “all necessary permits” for the development within 72 hours of approval by said third part; and

**WHEREAS**, HB 291 would require the Town of Beech Mountain to greatly expand its Planning and Inspection department in order to comply, which would force an increase in property taxes or a decrease in other services; and

**WHEREAS**, HB 291 unfairly places the burden on taxpayers to subsidize private development permitting by commercial developers; and

**WHEREAS**, unfunded mandates by the State, particularly during a time when local revenues are under pressure due to CoViD-19 and other factors affecting local economies, will force communities, such as the Town of Beech Mountain, to either increase property taxes or decrease services critical to the residents, such as street maintenance or fire and police protection; and

**NOW THEREFORE** be it resolved that the Town Council of the Town of Beech Mountain, North Carolina, respectfully requests:

1. That the General Assembly not adopt either HB 291 or SB 349/HB 401;
2. That, if passed, the Governor, the Honorable Roy Cooper veto these measures;
3. That a copy of this Resolution be sent to our elected State representatives and the Governor;
4. That the Town Manager take whatever additional steps he deems prudent in seeking to prevent the adoption of these bills; and

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council for the Town of Beech Mountain, North Carolina, at which a quorum was present and which was held on the \_\_\_\_ day of \_\_\_\_\_, 2021.

ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Barry Kaufman, Mayor

ATTEST:

\_\_\_\_\_(SEAL)  
Tamara Mercer  
Clerk to the Board

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 401  
Mar 24, 2021  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10179-MQ-32B

Short Title: Increase Housing Opportunities. (Public)

Sponsors: Representative D. Hall.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO  
3 INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND  
4 CLARIFICATIONS TO THE ZONING STATUTES.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. AFFORDABLE HOUSING OPTIONS**

8 **SECTION 1.1.(a)** Article 7 of Chapter 160D of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 160D-707. Middle housing use in residential zones.**

11 (a) Definitions. – As used in this section, the term "middle housing" means a residential  
12 dwelling that is one of the following, as defined by the North Carolina Building Code Council:

- 13 (1) A duplex.
- 14 (2) A triplex.
- 15 (3) A quadplex.
- 16 (4) A townhouse.

17 (b) Middle Housing in Residential Zones. – A local government shall allow all middle  
18 housing types in areas zoned for residential use, including those that allow for the development  
19 of detached single-family dwellings.

20 (c) Regulation and Scope. – A local government may regulate middle housing pursuant  
21 to the provisions of this Chapter, provided that the regulations do not act to discourage  
22 development of middle housing types through unreasonable costs or delay. In permitting middle  
23 housing types, nothing in this section shall be construed to prohibit a local government from  
24 permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing  
25 in this section affects the validity or enforceability of private covenants or other contractual  
26 agreements among property owners relating to dwelling type restrictions. Any regulation adopted  
27 pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant  
28 to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This  
29 section shall only apply to areas that are served, or through extension may be served, by one or  
30 more of the following:

- 31 (1) A local government water system.
- 32 (2) A local government sewer system.
- 33 (3) A public water system.
- 34 (4) A wastewater collection or treatment works, the operation of which is  
35 primarily to collect or treat municipal or domestic wastewater and for which



1 a permit is issued under Part 1 of Article 21 of Chapter 143 of the General  
2 Statutes."

3 **SECTION 1.1.(b)** G.S. 160D-102 is amended by adding a new subdivision to read:  
4 "(28a) Single-family dwelling. – The term shall include all of the types of middle  
5 housing as defined in G.S. 160D-707(a)."

6 **SECTION 1.1.(c)** This section becomes effective October 1, 2021.

7 **SECTION 1.2.** The North Carolina Building Code Council (Council) shall adopt  
8 amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code)  
9 to define and include regulation of triplex dwelling units and quadplex dwelling units in order to  
10 facilitate regulation of those units in areas zoned for residential use, including those that allow  
11 for the development of detached single-family dwellings. Upon adoption of the amendments, the  
12 Council and local governments enforcing the Code shall regulate triplex dwelling units and  
13 quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the  
14 new amendments to the Code.

15 **SECTION 1.3.(a)** Part 1 of Article 9 of Chapter 160D of the General Statutes is  
16 amended by adding a new section to read:

17 **"§ 160D-917. Accessory dwelling units.**

18 (a) A local government shall allow the development of at least one accessory dwelling  
19 unit which conforms to the North Carolina Residential Code for One- and Two-Family  
20 Dwellings, including applicable provisions from State fire prevention code, for each detached  
21 single-family dwelling in areas zoned for residential use that allow for development of detached  
22 single-family dwellings. For the purposes of this section, the term "accessory dwelling unit"  
23 means an attached or detached residential structure that is used in connection with or that is  
24 accessory to a single-family dwelling.

25 (b) Development and permitting of an accessory dwelling unit shall not be subject to any  
26 of the following requirements:

- 27 (1) Owner-occupancy of any dwelling unit, including an accessory unit.
- 28 (2) Minimum parking requirements or other parking restrictions.
- 29 (3) Conditional use zoning.

30 (c) In permitting accessory dwelling units under this section, a local government shall  
31 not do any of the following:

- 32 (1) Prohibit the connection of the accessory dwelling unit to existing utilities  
33 servicing the primary dwelling unit.
- 34 (2) Charge any fee other than a building permit that does not exceed the amount  
35 charged for any single-family dwelling unit similar in nature.
- 36 (3) Establish development setbacks that differ from the development setbacks  
37 applicable for a similarly situated lot in the same zoning classification."

38 **SECTION 1.3.(b)** This section becomes effective October 1, 2021.

39 **SECTION 1.4.(a)** G.S. 42A-3 reads as rewritten:

40 **"§ 42A-3. Application; exemptions.**

41 (a) The provisions of this Chapter shall apply to any person, partnership, corporation,  
42 limited liability company, association, or other business entity who acts as a landlord or real  
43 estate broker engaged in the rental or management of residential property for vacation rental as  
44 defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to  
45 properties covered under this Chapter.

46 (b) The provisions of this Chapter shall not apply to:

- 47 (1) Lodging provided by hotels, motels, tourist camps, and other places subject to  
48 regulation under Chapter 72 of the General Statutes.
- 49 (2) Rentals to persons temporarily renting a dwelling unit when traveling away  
50 from their primary residence for business or employment purposes.
- 51 (3) Rentals to persons having no other place of primary residence.

- 1 (4) Rentals for which no more than nominal consideration is given.
- 2 (5) Accessory dwelling units permitted pursuant to G.S. 160D-917."
- 3 **SECTION 1.4.(b)** This section becomes effective October 1, 2021.
- 4 **SECTION 1.5.** Local governments shall adopt land use ordinances and regulations
- 5 or amend their comprehensive plans to implement the provisions in this Part no later than October
- 6 1, 2021.
- 7 **SECTION 1.6.** Except as otherwise provided, this Part is effective when it becomes
- 8 law.

**PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES FOR MORE HOUSING OPPORTUNITIES**

**SECTION 2.1.** G.S. 160D-108 reads as rewritten:  
**"§ 160D-108. Permit choice and vested rights.**

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(b1) Substantial Compliance. – A development permit application that substantially complies with the provision of information required by ordinance or regulation shall be sufficient to accept and process a request for a local or State development permit. Minor omissions in the application shall not be a sufficient basis to make an application ineligible for vesting. A local development regulation shall not condition the acceptance or processing of a development permit application upon the application for or issuance of a State permit, nor shall a State development regulation condition the acceptance or processing of a development permit application upon a local permit, unless specifically authorized by statute.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- 1 (1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
- 2 (2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
- 3 (3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
- 4 (4) A multi-phased development pursuant to subsection (f) of this section.
- 5 (5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the

1 applicable land development regulation or regulations, except where a change in State or federal  
2 law mandating local government enforcement occurs after the development application is  
3 submitted that has a fundamental and retroactive effect on the development or use.

4 (d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting  
5 granted by subsection (c) of this section for a development project is effective upon filing of the  
6 application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to  
7 law. Unless otherwise specified by this section or other statute, local development permits expire  
8 one year after issuance unless work authorized by the permit has substantially commenced. A  
9 local land development regulation may provide for a longer permit expiration period. For the  
10 purposes of this section, a permit is issued either in the ordinary course of business of the  
11 applicable governmental agency or by the applicable governmental agency as a court directive.

12 Except where a longer vesting period is provided by statute or land development regulation,  
13 the statutory vesting granted by this ~~section, section or common law vesting~~, once established,  
14 expires for an uncompleted development project if development work is intentionally and  
15 voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory  
16 vesting period granted by this section or common law vesting for a nonconforming use of  
17 property expires if the use is intentionally and voluntarily discontinued for a period of not less  
18 than 24 consecutive months. The 24-month discontinuance period is automatically tolled during  
19 the pendency of any board of adjustment proceeding or civil action in a State or federal trial or  
20 appellate court regarding the validity of a development permit, the use of the property, or the  
21 existence of the statutory vesting period granted by this section. The 24-month discontinuance  
22 period is also tolled during the pendency of any litigation involving the development project or  
23 property that is the subject of the vesting.

24 (e) Multiple Permits for Development Project. – Subject to subsection (d) of this section,  
25 where multiple ~~local~~ development permits are required to complete a development project, the  
26 development permit applicant may choose the version of each of the ~~local~~ land development  
27 regulations applicable to the project upon submittal of the application for the initial development  
28 permit. ~~This~~ Except as provided in subsection (f) of this section, this provision is not applicable  
29 ~~only~~ for those subsequent development permit applications filed within after 18 months of the  
30 latter of (i) the date following the approval of an initial of cessation of work related to the  
31 uncompleted development project or (ii) the date of issuance of the immediately preceding local  
32 development permit. For purposes of the vesting protections of this subsection, an erosion and  
33 sedimentation control permit or a sign permit is not an initial development permit.

34 (f) Multi-Phased Development. – A multi-phased development is vested for the entire  
35 development with the land development regulations then in place at the time a site plan approval  
36 is granted for the initial phase of the multi-phased development. A right which has been vested  
37 as provided for in this subsection remains vested for a period of seven years from the time a site  
38 plan approval is granted for the initial phase of the multi-phased development.

39 (g) Continuing Review. – Following issuance of a development permit, a local  
40 government may make subsequent inspections and reviews to ensure compliance with the  
41 applicable land development regulations in effect at the time of the original application.

42 (h) Process to Claim Vested Right. – A person claiming a statutory or common law vested  
43 right may submit information to substantiate that claim to the zoning administrator or other  
44 officer designated by a land development regulation, who shall make an initial determination as  
45 to the existence of the vested right. The decision of the zoning administrator or officer may be  
46 appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de  
47 novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a  
48 person claiming a vested right may bring an original civil action as provided by  
49 G.S. 160D-1403.1.

50 (i) Miscellaneous Provisions. – The vested rights granted by this section run with the  
51 land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and

1 G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit  
 2 issued by the North Carolina Department of Transportation. Nothing in this section precludes  
 3 judicial determination, based on common law principles or other statutory provisions, that a  
 4 vested right exists in a particular case or that a compensable taking has occurred. Except as  
 5 expressly provided in this section, nothing in this section shall be construed to alter the existing  
 6 common law.

7 (j) Definitions. – As used in this section, the following definitions apply:

- 8 (1) Development. – As defined in G.S. 143-755(e)(1).
- 9 (2) Development permit. – As defined in G.S. 143-755(e)(2).
- 10 (3) Land development regulation. – As defined in G.S. 143-755(e)(3).
- 11 (4) Multi-phased development. – A development containing 25 acres or more that  
 12 is both of the following:
  - 13 a. Submitted for development permit approval to occur in more than one  
 14 phase.
  - 15 b. Subject to a master development plan with committed elements  
 16 showing the type and intensity of use of each phase."

17 **SECTION 2.2.** G.S. 160D-702 reads as rewritten:

18 "**§ 160D-702. Grant of power.**

19 (a) A local government may adopt zoning regulations. Except as provided in subsections  
 20 (b) ~~and (c)~~ through (e) of this section, a zoning regulation may regulate and restrict the height,  
 21 number of stories, and size of buildings and other structures; the percentage of lots that may be  
 22 occupied; the size of yards, courts, and other open spaces; the density of population; the location  
 23 and use of buildings, structures, and land. A local government may regulate development,  
 24 including floating homes, over estuarine waters and over lands covered by navigable waters  
 25 owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or  
 26 severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or  
 27 G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and  
 28 utility rights-of-way be dedicated to the public, that provision be made of recreational space and  
 29 facilities, and that performance guarantees be provided, all to the same extent and with the same  
 30 limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

31 (b) Any regulation relating to building design elements adopted under this Chapter may  
 32 not be applied to any structures subject to regulation under the North Carolina Residential Code  
 33 for One- and Two-Family Dwellings except under one or more of the following circumstances:

- 34 (1) The structures are located in an area designated as a local historic district  
 35 pursuant to Part 4 of Article 9 of this Chapter.
- 36 (2) The structures are located in an area designated as a historic district on the  
 37 National Register of Historic Places.
- 38 (3) The structures are individually designated as local, State, or national historic  
 39 landmarks.
- 40 (4) The regulations are directly and substantially related to the requirements of  
 41 applicable safety codes adopted under G.S. 143-138.
- 42 (5) Where the regulations are applied to manufactured housing in a manner  
 43 consistent with G.S. 160D-908 and federal law.
- 44 (6) Where the regulations are adopted as a condition of participation in the  
 45 National Flood Insurance Program.

46 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any  
 47 zoning district or conditional district unless voluntarily consented to by the owners of all the  
 48 property to which those regulations may be applied as part of and in the course of the process of  
 49 seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval,  
 50 nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604

1 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted  
2 comprehensive plan or other applicable officially adopted plan.

3 For the purposes of this subsection, the phrase "building design elements" means exterior  
4 building color; type or style of exterior cladding material; style or materials of roof structures or  
5 porches; exterior nonstructural architectural ornamentation; location or architectural styling of  
6 windows and doors, including garage doors; the number and types of rooms; and the interior  
7 layout of rooms. The phrase "building design elements" does not include any of the following:  
8 (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering  
9 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect  
10 the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the  
11 permitted uses of land or structures subject to the North Carolina Residential Code for One- and  
12 Two-Family Dwellings.

13 Nothing in this subsection affects the validity or enforceability of private covenants or other  
14 contractual agreements among property owners relating to building design elements.

15 (c) A zoning regulation shall not set a minimum square footage of any structures subject  
16 to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

17 (d) A local government shall not adopt or enforce an ordinance downzoning property, as  
18 defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local  
19 government can show a change in circumstances that substantially affects the public health,  
20 safety, or welfare.

21 (e) A local government shall not adopt or enforce an ordinance that establishes a ban or  
22 has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per  
23 se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

24 (f) Nothing in this section shall be construed to limit the authority of a local government  
25 to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the  
26 General Statutes."

27 **SECTION 2.3.** G.S. 160D-703 reads as rewritten:

28 **"§ 160D-703. Zoning districts.**

29 (a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction  
30 into zoning districts of any number, shape, and area deemed best suited to carry out the purposes  
31 of this Article. Within those districts, it may regulate and restrict the erection, construction,  
32 reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may  
33 include, but are not be limited to, the following:

- 34 (1) Conventional districts, in which a variety of uses are allowed as permitted uses  
35 or uses by right and that may also include uses permitted only with a special  
36 use permit.
- 37 (2) Conditional districts, in which site plans or individualized development  
38 conditions are imposed.
- 39 (3) Form-based districts, or development form controls, that address the physical  
40 form, mass, and density of structures, public spaces, and streetscapes.
- 41 (4) Overlay districts, in which different requirements are imposed on certain  
42 properties within one or more underlying conventional, conditional, or  
43 form-based districts.
- 44 (5) Districts allowed by charter.

45 (b) Conditional Districts. – Property may be placed in a conditional district only in  
46 response to a petition by all owners of the property to be included. Specific conditions may be  
47 proposed by the petitioner or the local government or its agencies, but only those conditions  
48 approved by the local government and consented to by the petitioner in writing may be  
49 incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the  
50 exercise of the authority granted by this section, a local government may not require, enforce, or  
51 incorporate into the zoning regulations any condition or requirement not authorized by otherwise

1 applicable law, including, without limitation, taxes, impact fees, building design elements within  
2 the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in  
3 G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or  
4 use of land. Conditions and site-specific standards imposed in a conditional district shall be  
5 limited to those that address the conformance of the development and use of the site to local  
6 government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably  
7 expected to be generated by the development or use of the site. The zoning regulation may  
8 provide that defined minor modifications in conditional district standards that do not involve a  
9 change in uses permitted or the density of overall development permitted may be reviewed and  
10 approved administratively. Any other modification of the conditions and standards in a  
11 conditional district shall follow the same process for approval as are applicable to zoning map  
12 amendments. If multiple parcels of land are subject to a conditional zoning, the owners of  
13 individual parcels may apply for modification of the conditions so long as the modification would  
14 not result in other properties failing to meet the terms of the conditions. Any modifications  
15 approved apply only to those properties whose owners petition for the modification.

16 (c) **Uniformity Within Districts.** – Except as authorized by the foregoing, all regulations  
17 shall be uniform for each class or kind of building throughout each district but the regulations in  
18 one district may differ from those in other districts.

19 (d) **Standards Applicable Regardless of District.** – A zoning regulation or unified  
20 development ordinance may also include development standards that apply uniformly  
21 jurisdiction-wide rather than being applicable only in particular zoning districts.

22 (e) **Limitations.** – A local government shall not engage in any of the following practices:

- 23 (1) The adoption or enforcement of an ordinance that downzones property in  
24 order to evade voluntary consent of landowners or petitioners or any other  
25 requirements contained in subsection (b) of this section.
- 26 (2) Allow a particular land use only through conditional zoning.
- 27 (3) Establishing a threshold on square footage or the number of dwelling units,  
28 where to exceed the threshold would require conditional zoning."

29 **SECTION 2.4.** Article 7 of Chapter 160D of the General Statutes is amended by  
30 adding a new section to read:

31 "**§ 160D-703.1. Remedies for violations.**

32 (a) If a court finds that a local government has acted in violation of G.S. 160D-702 or  
33 G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who  
34 successfully challenged the actions of the local government.

35 (b) In the event that a court invalidates a regulation pursuant to this section, a permit  
36 applicant may choose which zoning designation will apply to the permit and use of the building,  
37 structure, or land indicated on the permit application from the following options:

- 38 (1) The zoning development regulation that existed most recently prior to the  
39 invalidated regulation.
- 40 (2) The least restrictive development standards contained within the zoning  
41 designation for the jurisdiction that is the most similar zoning designation to  
42 the class of property use identified in the permit application.

43 (c) For the purposes of this section, the term "class of property use" means one of the  
44 following major land-use groups:

- 45 (1) Commercial.
- 46 (2) Governmental.
- 47 (3) Industrial.
- 48 (4) Institutional.
- 49 (5) Residential."

50 **SECTION 2.5.** G.S. 160D-706 reads as rewritten:

51 "**§ 160D-706. Zoning conflicts with other development standards.**

1 (a) When regulations made under authority of this Article require a greater width or size  
 2 of yards or courts, or require a lower height of a building or fewer number of stories, or require  
 3 a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied  
 4 than are required in any other statute or local ordinance or regulation, the regulations made under  
 5 authority of this Article govern. When the provisions of any other statute or local ordinance or  
 6 regulation require a greater width or size of yards or courts, or require a lower height of a building  
 7 or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or~~  
 8 ~~impose other higher standards~~ unoccupied than are required by the regulations made under  
 9 authority of this Article, the provisions of that statute or local ordinance or regulation govern.

10 (b) When adopting regulations under this Article, a local government may not use a  
 11 definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with  
 12 any definition of those terms in another statute or in a rule adopted by a State agency, including  
 13 the State Building Code Council.

14 (c) Except as provided in subsection (a) of this section, a local government shall not adopt  
 15 or enforce development regulations that alter the principle that ambiguities in land development  
 16 regulations are to be construed in favor of the free use of land, including any development  
 17 regulations that assert that a more restrictive rule or regulation is controlling.

18 (d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local  
 19 government, through its governing board, is authorized to settle any litigation related to the  
 20 enforcement of or compliance with development regulations for a development or a development  
 21 permit applicant, including any quasi-judicial development permit."

22 **SECTION 2.6.** G.S. 160D-1402 reads as rewritten:

23 **"§ 160D-1402. Appeals in the nature of certiorari.**

24 (a) Applicability. – This section applies to appeals of quasi-judicial decisions of  
 25 decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

26 (b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a  
 27 petition for writ of certiorari with the superior court. The petition shall do all of the following:

- 28 (1) State the facts that demonstrate that the petitioner has standing to seek review.
- 29 (2) Set forth allegations sufficient to give the court and parties notice of the  
 30 grounds upon which the petitioner contends that an error was made.
- 31 (3) Set forth with particularity the allegations and facts, if any, in support of  
 32 allegations that, as the result of an impermissible conflict as described in  
 33 G.S. 160D-109, or locally adopted conflict rules, the decision-making body  
 34 was not sufficiently impartial to comply with due process principles.
- 35 (4) Set forth the relief the petitioner seeks.

36 (c) Standing. – A petition may be filed under this section only by a petitioner who has  
 37 standing to challenge the decision being appealed. The following persons have standing to file a  
 38 petition under this section:

- 39 (1) Any person possessing any of the following criteria:
  - 40 a. An ownership interest in the property that is the subject of the decision  
 41 being appealed, a leasehold interest in the property that is the subject  
 42 of the decision being appealed, or an interest created by easement,  
 43 restriction, or covenant in the property that is the subject of the  
 44 decision being appealed.
  - 45 b. An option or contract to purchase the property that is the subject of the  
 46 decision being appealed.
  - 47 c. An applicant before the decision-making board whose decision is  
 48 being appealed.
- 49 (2) Any other person who will suffer special damages as the result of the decision  
 50 being appealed.

1 (3) An incorporated or unincorporated association to which owners or lessees of  
2 property in a designated area belong by virtue of their owning or leasing  
3 property in that area, or an association otherwise organized to protect and  
4 foster the interest of the particular neighborhood or local area, so long as at  
5 least one of the members of the association would have standing as an  
6 individual to challenge the decision being appealed, and the association was  
7 not created in response to the particular development or issue that is the  
8 subject of the appeal.

9 (4) A local government whose decision-making board has made a decision that  
10 the governing board believes improperly grants a variance from or is  
11 otherwise inconsistent with the proper interpretation of a development  
12 regulation adopted by the governing board.

13 (d) Respondent. – The respondent named in the petition shall be the local government  
14 whose decision-making board made the decision that is being appealed, except that if the  
15 petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection  
16 (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not  
17 the applicant before the decision-making board whose decision is being appealed, the petitioner  
18 shall also name that applicant as a respondent. Any petitioner may name as a respondent any  
19 person with an ownership or leasehold interest in the property that is the subject of the decision  
20 being appealed who participated in the hearing, or was an applicant, before the decision-making  
21 board.

22 (e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition  
23 and a proposed writ of certiorari to the clerk of superior court of the county in which the matter  
24 arose. The writ shall direct the respondent local government or the respondent decision-making  
25 board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4)  
26 of subsection (c) of this section, to prepare and certify to the court the record of proceedings  
27 below within a specified date. The writ shall also direct the petitioner to serve the petition and  
28 the writ upon each respondent named therein in the manner provided for service of a complaint  
29 under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a  
30 decision-making board, the petition and the writ shall be served upon the chair of that  
31 decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the  
32 chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall  
33 issue the writ without notice to the respondent or respondents if the petition has been properly  
34 filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

35 Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution  
36 or enforcement of the decision of the quasi-judicial board pending superior court review. The  
37 court may grant a stay in its discretion and on conditions that properly provide for the security of  
38 the adverse party. A stay granted in favor of a city or county shall not require a bond or other  
39 security.

40 (f) Response to the Petition. – The respondent may, but need not, file a response to the  
41 petition, except that, if the respondent contends for the first time that any petitioner lacks standing  
42 to bring the appeal, that contention must be set forth in a response served on all petitioners at  
43 least 30 days prior to the hearing on the petition. If it is not served within that time period, the  
44 matter may be continued to allow the petitioners time to respond.

45 (g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene  
46 as a petitioner or respondent in an action initiated under this section with the following  
47 exceptions:

- 48 (1) Any person described in subdivision (1) of subsection (c) of this section has  
49 standing to intervene and shall be allowed to intervene as a matter of right.
- 50 (2) Any person, other than one described in subdivision (1) of subsection (c) of  
51 this section, who seeks to intervene as a petitioner must demonstrate that the

1 person would have had standing to challenge the decision being appealed in  
 2 accordance with subdivisions (2) through (4) of subsection (c) of this section.  
 3 (3) Any person, other than one described in subdivision (1) of subsection (c) of  
 4 this section, who seeks to intervene as a respondent must demonstrate that the  
 5 person would have had standing to file a petition in accordance with  
 6 subdivisions (2) through (4) of subsection (c) of this section if the  
 7 decision-making board had made a decision that is consistent with the relief  
 8 sought by the petitioner.

9 For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is  
 10 untimely and shall not be allowed if filed after the court has rendered a final judgment on the  
 11 underlying appeal.

12 (h) The Record. – The record shall consist of the decision and all documents and exhibits  
 13 submitted to the decision-making board whose decision is being appealed, together with the  
 14 minutes of the meeting or meetings at which the decision being appealed was considered. Upon  
 15 request of any party, the record shall also contain an audio or videotape of the meeting or  
 16 meetings at which the decision being appealed was considered if such a recording was made.  
 17 Any party may also include in the record a transcript of the proceedings, which shall be prepared  
 18 at the cost of the party choosing to include it. The parties may agree that matters unnecessary to  
 19 the court's decision be deleted from the record or that matters other than those specified herein  
 20 be included. The record shall be bound and paginated or otherwise organized for the convenience  
 21 of the parties and the court. A copy of the record shall be served by the local government  
 22 respondent, or the respondent decision-making board, upon all petitioners within three days after  
 23 it is filed with the court.

24 (i) Hearing on the Record. – The court shall hear and decide all issues raised by the  
 25 petition by reviewing the record submitted in accordance with subsection (h) of this section. The  
 26 court shall allow the record to be supplemented with affidavits, testimony of witnesses, or  
 27 documentary or other evidence if, and to the extent that, the petition raises any of the following  
 28 issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil  
 29 Procedure apply to the supplementation of the record of these issues:

30 (1) Whether ~~a petitioner or an~~ intervenor has standing.  
 31 (2) Whether, as a result of impermissible conflict as described in G.S. 160D-109  
 32 or locally adopted conflict rules, the decision-making body was not  
 33 sufficiently impartial to comply with due process principles. A failure to  
 34 object at a hearing by a person with standing under subsection (c) of this  
 35 section shall not constitute a waiver of a right to assert impermissible conflict  
 36 involving any member of the quasi-judicial decision-making body.  
 37 (3) Whether the decision-making body erred for the reasons set forth in  
 38 sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

39 (j) Scope of Review. –  
 40 (1) When reviewing the decision under the provisions of this section, the court  
 41 shall ensure that the rights of petitioners have not been prejudiced because the  
 42 decision-making body's findings, inferences, conclusions, or decisions were:  
 43 a. In violation of constitutional provisions, including those protecting  
 44 procedural due process rights.  
 45 b. In excess of the statutory authority conferred upon the local  
 46 government, including preemption, or the authority conferred upon the  
 47 decision-making board by ordinance.  
 48 c. Inconsistent with applicable procedures specified by statute or  
 49 ordinance.  
 50 d. Affected by other error of law.

- 1 e. Unsupported by competent, material, and substantial evidence in view  
2 of the entire record.
- 3 f. Arbitrary or capricious.
- 4 (2) When the issue before the court is one set forth in sub-subdivisions a. through  
5 d. of subdivision (1) of this subsection, including whether the decision-making  
6 board erred in interpreting an ordinance, the court shall review that issue de  
7 novo. The court shall consider the interpretation of the decision-making board,  
8 but is not bound by that interpretation, and may freely substitute its judgment  
9 as appropriate. Whether the record contains competent, material, and  
10 substantial evidence is a conclusion of law, reviewable de novo.
- 11 (3) The term "competent evidence," as used in this subsection, does not preclude  
12 reliance by the decision-making board on evidence that would not be  
13 admissible under the rules of evidence as applied in the trial division of the  
14 General Court of Justice if (i) except for the items noted in sub-subdivisions  
15 a., b., and c. of this subdivision that are conclusively incompetent, the  
16 evidence was admitted without objection or (ii) the evidence appears to be  
17 sufficiently trustworthy and was admitted under such circumstances that it  
18 was reasonable for the decision-making board to rely upon it. The term  
19 "competent evidence," as used in this subsection, shall, regardless of the lack  
20 of a timely objection, not be deemed to include the opinion testimony of lay  
21 witnesses as to any of the following:
- 22 a. The use of property in a particular way affects the value of other  
23 property.
- 24 b. The increase in vehicular traffic resulting from a proposed  
25 development poses a danger to the public safety. An approval by the  
26 North Carolina Department of Transportation of a traffic impact  
27 analysis for a development project shall be conclusive evidence that  
28 the traffic related to the project will not pose a danger to the public  
29 safety and will otherwise preclude using traffic as a basis for denying  
30 a development permit.
- 31 c. Matters about which only expert testimony would generally be  
32 admissible under the rules of evidence.
- 33 (j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the  
34 State and federal constitutions and State and federal case law, an action filed under this section  
35 is not rendered moot, if during the pendency of the action, the aggrieved person loses the  
36 applicable property interest as a result of the local government action being challenged and  
37 exhaustion of an appeal described herein is required for purposes of preserving a claim for  
38 damages under G.S. 160D-1403.1.
- 39 (k) Decision of the Court. – Following its review of the decision-making board in  
40 accordance with subsection (j) of this section, the court may affirm the decision, reverse the  
41 decision and remand the case with appropriate instructions, or remand the case for further  
42 proceedings. If the court does not affirm the decision below in its entirety, then the court shall  
43 determine what relief should be granted to the petitioners:
- 44 (1) If the court concludes that the error committed by the decision-making board  
45 is procedural only, the court may remand the case for further proceedings to  
46 correct the procedural error.
- 47 (2) If the court concludes that the decision-making board has erred by failing to  
48 make findings of fact such that the court cannot properly perform its function,  
49 then the court may remand the case with appropriate instructions so long as  
50 the record contains substantial competent evidence that could support the  
51 decision below with appropriate findings of fact. However, findings of fact

- 1 are not necessary when the record sufficiently reveals the basis for the
- 2 decision below or when the material facts are undisputed and the case presents
- 3 only an issue of law.
- 4 (3) If the court concludes that the decision by the decision-making board is not
- 5 supported by competent, material, and substantial evidence in the record or is
- 6 based upon an error of law, then the court may remand the case with an order
- 7 that directs the decision-making board to take whatever action should have
- 8 been taken had the error not been committed or to take such other action as is
- 9 necessary to correct the error. Specifically:
- 10 a. If the court concludes that a permit was wrongfully denied because the
- 11 denial was not based on competent, material, and substantial evidence
- 12 or was otherwise based on an error of law, the court shall remand with
- 13 instructions that the permit be issued, subject to any conditions
- 14 expressly consented to by the permit applicant as part of the
- 15 application or during the board of adjustment appeal or writ of
- 16 certiorari appeal.
- 17 b. If the court concludes that a permit was wrongfully issued because the
- 18 issuance was not based on competent, material, and substantial
- 19 evidence or was otherwise based on an error of law, the court may
- 20 remand with instructions that the permit be revoked.
- 21 c. If the court concludes that a zoning board decision upholding a zoning
- 22 enforcement action was not supported by substantial competent
- 23 evidence or was otherwise based on an error of law, the court shall
- 24 reverse the decision.

(l) ~~Effect of Appeal and Ancillary Injunctive Relief. — of Administrative Decision on a~~  
Permitted Use. —

- 27 (1) ~~If a development approval is appealed, appealed on the basis of a use not being~~  
permitted by a development regulation, the applicant shall have the right to  
commence work while the appeal is pending. However, if the development  
approval is reversed by a final decision of any court of competent jurisdiction,  
jurisdiction determines that the use is not allowed, the applicant shall not be  
deemed to have gained any vested rights on the basis of actions taken prior to  
or during the pendency of the appeal and must proceed as if no development  
approval had been granted.
- 35 (2) ~~Upon motion of a party to a proceeding under this section, and under~~  
appropriate circumstances, the court may issue an injunctive order requiring  
any other party to that proceeding to take certain action or refrain from taking  
action that is consistent with the court's decision on the merits of the appeal.

(ll) Effect of Appeal of Quasi-Judicial Relief. —

- 40 (1) An appeal by a party with standing under subsection (c) of this section from  
the granting of a special use permit by a local board or other development  
permit issued pursuant to quasi-judicial proceedings shall be rendered moot if  
development authorized by the approved permit substantially commences  
prior to the issuance of an injunction by a court under subsection (o) of this  
section or under Rule 65 of the Rules of Civil Procedure with appropriate  
security.
- 47 (2) If a special use permit is issued by the applicable local board after remand  
from a decision of a court of competent jurisdiction and no injunction is  
otherwise in place to prevent the issuance of a permit, any appeal related to  
the subject matter of the permit is rendered moot.

1 (m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action  
2 relating to the decision at issue may be joined with the petition for writ of certiorari and decided  
3 in the same proceeding.

4 (n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

5 (o) Upon motion of a party to a proceeding under this section, and under appropriate  
6 circumstances, the court may issue an injunctive order requiring any other party to that  
7 proceeding to take certain action or refrain from taking action that is consistent with the court's  
8 decision on the merits of the appeal. The court shall require the moving party to post an  
9 appropriate bond set by the judge or clerk issuing the stay. A local government shall not be  
10 required to post a bond under this subsection."

11  
12 **PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING**  
13 **DENIALS**

14 **SECTION 3.1.** Beginning October 1, 2021, every local government engaged in  
15 development permitting review shall submit a semiannual report to the Joint Legislative  
16 Committee on Local Government and the Fiscal Research Division. The report shall contain at  
17 least all of the following:

- 18 (1) The number of development permit applications received.  
19 (2) The number of development permit applications denied and the reason for  
20 denial.  
21 (3) The number of down-zoning ordinances enacted.  
22

23 **PART IV. EFFECTIVE DATE**

24 **SECTION 4.1.** Except as otherwise provided, this act is effective when it becomes  
25 law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply  
26 to permit applications filed and appeals taken before, on, and after the effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 291  
Mar 11, 2021  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10132-MQ-69

Short Title: Bldg. Plan Approval - Certain Commercial Prop. (Public)

Sponsors: Representatives Zenger and Potts (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH AND REQUIRE CERTAIN TIME LINES FOR REVIEW AND  
3 APPROVAL OF COMMERCIAL BUILDING PLANS FOR LOCAL GOVERNMENTS  
4 AND TO ESTABLISH REMEDIES FOR FAILURE TO TIMELY REVIEW PLANS  
5 SUBMITTED UNDER THE EXPERTISE OF A LICENSED DESIGN PROFESSIONAL.  
6 The General Assembly of North Carolina enacts:  
7 **SECTION 1.** G.S. 160D-1106 reads as rewritten:  
8 **"§ 160D-1106. Alternate inspection method for component or element.**  
9 (a) Notwithstanding the requirements of this Article, a local government shall accept and  
10 approve, without further responsibility to inspect, a design or other proposal for a component or  
11 element in the construction of buildings from an architect licensed under Chapter 83A of the  
12 General Statutes or professional engineer licensed under Chapter 89C of the General Statutes  
13 provided all of the following apply:  
14 (1) When required by the North Carolina State Building Code, the submission  
15 design or other proposal is completed under valid seal of the licensed architect  
16 or licensed professional engineer.  
17 (2) Field inspection of the installation or completion of a component or element  
18 of the building is performed by a licensed architect or licensed professional  
19 engineer or a person under the direct supervisory control of the licensed  
20 architect or licensed professional engineer.  
21 (3) The licensed architect or licensed professional engineer under subdivision (2)  
22 of this subsection provides the local government with a signed written  
23 document certifying that the component or element of the building inspected  
24 under subdivision (2) of this subsection is in compliance with the North  
25 Carolina State Building Code or the North Carolina Residential Code for  
26 One- and Two-Family Dwellings. The certification required under this  
27 subdivision shall be provided by electronic or physical delivery, [and] its  
28 receipt shall be promptly acknowledged by the local government through  
29 reciprocal means. The certification shall be made on a form created by the  
30 North Carolina Building Code Council which shall include at least the  
31 following:  
32 a. Permit number.  
33 b. Date of inspection.  
34 c. Type of inspection.  
35 d. Contractor's name and license number.  
36 e. Street address of the job location.



1 f. Name, address, and telephone number of the person responsible for  
2 the inspection.

3 (a1) In accepting certifications of inspections under subsection (a) of this section, a local  
4 government shall not require information other than that specified in this section.

5 (b) Upon the acceptance and approval receipt of a signed written document by the local  
6 government as required under subsection (a) or (c1) of this section, notwithstanding the issuance  
7 of a certificate of occupancy, the local government, its inspection department, and the inspectors  
8 are discharged and released from any liabilities, duties, and responsibilities imposed by this  
9 Article with respect to or in common law from any claim arising out of or attributed to the  
10 component or element in the construction of the building for which the signed written document  
11 was submitted.

12 (c) With the exception of the requirements contained in subsection (a) of this section, no  
13 further certification by a licensed architect or licensed professional engineer is required for any  
14 component or element designed and sealed by a licensed architect or licensed professional  
15 engineer for the manufacturer of the component or element under the North Carolina State  
16 Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

17 (c1) Notwithstanding any provision of law to the contrary, for commercial plans submitted  
18 that require a design professional seal pursuant to Building Code Council rules, initial plan  
19 review shall be completed within 15 days. During the initial 15-day period, the local government  
20 or its agents shall communicate with the design professional to resolve questions and issues with  
21 the submitted plan. If the local government requests additional information or requires that the  
22 plan be resubmitted with changes, the local government shall review the requested information  
23 or resubmitted plan and issue a permit within 15 days from the receipt of the requested  
24 information or resubmitted plan. In the event that the local government does not issue a permit  
25 for the submitted plan within 30 days of initial plan submission, or, if additional information or  
26 plan resubmission is requested, within 15 days of the receipt of the information or resubmitted  
27 plan, the following shall apply:

28 (1) The fee charged for plan submission and review shall be reduced by ten  
29 percent (10%) each day.

30 (2) The permit applicant may retain a third-party firm to review the submitted  
31 plans, and the cost of the third-party review shall be reimbursed by the local  
32 government. Upon review and approval by the third party, the local  
33 government shall issue all necessary permits for the project within 72 hours.

34 In the event the local government or its agents require specifications or manufacturer  
35 engineering information on an element, component, or fixture related to the submitted plan, the  
36 local government shall obtain that information from the manufacturer of the element, component,  
37 or fixture. A local government shall not delay or deny the issuance of a permit or certificate of  
38 occupancy based upon the receipt of specifications or manufacturer engineering information on  
39 an element, component, or fixture.

40 (d) As used in this section, the following definitions apply:

41 (1) Component. – Any assembly, subassembly, or combination of elements  
42 designed to be combined with other components to form part of a building or  
43 structure. Examples of a component include an excavated footing trench  
44 containing no concrete, a foundation, and a prepared underslab with  
45 slab-related materials without concrete. The term does not include a system.

46 (2) Element. – A combination of products designed to be combined with other  
47 elements to form all or part of a building component. The term does not  
48 include a system."

49 **SECTION 2.** This act is effective when it becomes law and applies to plans  
50 submitted on or after that date.





## PROCLAMATION

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**TO:** Tow  
**FROM:** Preston Yates  
**DATE:** April 13, 2021  
**SUBJECT:** Proclamation for Arbor Day

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**FOR THE PURPOSE OF:**

Proclaiming May 1, 2021 as Arbor Day for the Town of Beech Mountain.

**SIGNATURES:**

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Town Manager

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Town Clerk



Proclamation

Town of Beech Mountain  
North Carolina

Date: 4/13/2020

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**TOWN OF BEECH MOUNTAIN**

**PROCLAMATION**

**RECOGNIZING MAY 1, 2021 AS ARBOR DAY**

**WHEREAS**, The Town of Beech Mountain recognizes that trees are a precious natural resource that improve the appearance of our community, increase the value of commercial and residential property, moderate air temperature, reduce energy costs, soil erosion and storm water runoff, and produce life-giving oxygen; and

**WHEREAS**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS**, this special day, known as Arbor Day, is now observed throughout the nation and the world; and

**WHEREAS**, the Town of Beech Mountain has created a Tree Committee with the goal of conserving, protecting, maintaining, and enhancing trees in town spaces; and

**WHEREAS**, on May 1, 2021 the Town of Beech Mountain will celebrate Arbor Day at the Town's 40<sup>th</sup> Birthday Party Celebration, with 40 tree seedlings for guests to help plant around the Town.

**NOW THEREFORE** be it resolved that I, Mayor Barry Kaufman, of the Town of Beech Mountain North Carolina officially proclaim May 1, 2021 as Arbor Day in the Town of Beech Mountain, and I urge all citizens to join us to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

**FURTHER**, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations

PROCLAIMED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Barry Kaufman, Mayor

ATTEST:

\_\_\_\_\_(SEAL)  
Tamara Mercer  
Clerk to the Board





## COUNCIL ACTION ITEM

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**TO:** Mayor & Town Council  
**FROM:** Bob Pudney  
**DATE:** April 13, 2021  
**SUBJECT:** Call for Public Hearing: Solid Waste Ordinance Revisions

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**FOR THE PURPOSE OF:**

To hold a public hearing to gather input from residents on proposed changes to the Solid Waste Ordinance.

**STAFF RECOMMENDATION:**

Staff recommends that Town Council call for a Public Hearing on the proposed changes to the Solid Waste Ordinance at the next regularly scheduled meeting, Tuesday, May 11th, 2021 at 4:00pm.

**SIGNATURES:**

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Town Manager

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Town Clerk

## CHAPTER 50: SOLID WASTE MANAGEMENT

### Section

- 50.01 Purpose and intent
- 50.02 Jurisdiction and application of federal and state laws
- 50.03 Administration and enforcement
- 50.04 Definitions
- 50.05 Storage and disposal
- 50.06 Definition and abatement of solid waste nuisances
- 50.07 Enforcement measures and remedies
- 50.08 Collection
- 50.09 Franchise required
- 50.10 Fees
- 50.11 Receptacles; preparation of solid waste
- 50.12 Solid waste bin specifications
- 50.13 Recycling Center; recyclables; separated materials
- 50.14 Changes in state law
- 50.99 Penalty

### § 50.01 PURPOSE AND INTENT.

(A) It is the purpose of this chapter to provide for the regulation of storage, collection and disposal of solid waste within the town. These provisions provide for the regulation in ~~the most~~an economically feasible, cost-effective and environmentally safe manner, the storage, collection, transportation, separation, processing, recycling, and disposal of solid waste in order to protect the public health, safety and welfare.

(B) These regulations are further adopted to enhance the environment for the citizens and resident of the town and to recover resources which have the potential for further usefulness, all in accordance with the authority, purposes, policies and goals enunciated the laws and regulations of the State of North Carolina pertaining to solid waste management as well as policies and practices in effect at the landfill where such materials are transported.

(C) These regulations are further determined to deter unlawful disposal of solid waste and encourage the reporting of littering and illegal dumping.

(Ord. 2020-04, passed 6-9-2020)

### § 50.02 JURISDICTION AND APPLICABILITY OF FEDERAL AND STATE LAWS.

The provisions of this chapter are intended, and shall be interpreted, to be consistent with and supplementary to the North Carolina General Statutes, state rules, and any county ordinance, regarding solid waste. To ensure such intent and interpretation, and in the event of ambiguity between the provisions of this chapter and other laws,

rules, or ordinances, the stricter of the provisions shall apply. Any violation of such provisions shall also be a violation of this chapter. To the extent any provisions of the chapter is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or applicability of this chapter.

(Ord. 2020-04, passed 6-9-2020)

#### **§ 50.03 ADMINISTRATION AND ENFORCEMENT.**

The Council authorizes the administration and enforcement of this chapter, which shall be administrated by the Town Manager or his designee.

(Ord. 2020-04, passed 6-9-2020)

#### **§ 50.04 DEFINITIONS.**

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BULKY WASTE.** Large man-made items of solid waste such as furniture, large auto parts, and other oversized wastes whose large size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.

**BEAR RESISTANT.** A solid waste receptacle is Bear Resistant if the receptacle has, or is designed or marketed by its manufacturer to have, qualities or features that prevent bears from accessing the contents thereof when the door, lid, flap, or other covering is secured by its latch or other locking mechanism.

**COLLECTION.** The act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.

**COMMERCIAL SOLID WASTE.** All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste; provided, that the definition of commercial solid waste is also applicable to places of residence having three or more dwelling units such as apartment buildings and mobile home courts.

**COMMERCIAL SOLID WASTE COLLECTOR.** Any person, firm, corporation, or other entity, engaged in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within the service area, including any such entity engaged in such activities with respect to solid waste generated by others for profit.

CONSTRUCTION AND DEMOLITION WASTE. Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, or other structures, but does not include inert debris, land-clearing debris, yard debris, brick, uncontaminated soil, sand, gravel, rock, concrete, or concrete block.

COUNCIL. The Town Council of the Town of Beech Mountain.

DEPARTMENT. The North Carolina Department of Environmental Quality.

DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

DIVISION. The Director of the Division of Solid Waste Management of the North Carolina Department of Environmental Quality, or the Director's authorized representative.

ENFORCEMENT OFFICER. The Town Manager employed by the Town of Beech Mountain appointed by the Town Council, or his designee, whose duties include the enforcement of this chapter.

FARMING. Activities related or incidental to production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

GARBAGE. All putrescible waste, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

HAZARDOUS WASTE.

(1) A solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(2) Provided, however, that nothing herein shall be construed to authorize the town to regulate hazardous waste in any manner prohibited by or pre-empted by the applicable North Carolina General Statutes and state rules and regulations.

**INDUSTRIAL PROCESS WASTE.** Solid waste resulting from an industrial or manufacturing process which may be disposed of at the county landfill after demonstrating its non-hazardous status through analysis, or by other means. Includes, but is not limited to sandblasting grit, contaminated food products, ash and dust.

**INDUSTRIAL SOLID WASTE.** Solid waste generated by manufacturing or industrial processes that is not hazardous waste.

**INERT DEBRIS.** Solid waste, which consists solely of material that, is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

**INFECTIOUS WASTE.** Solid waste capable of producing an infectious disease. The types of waste designated as infectious are microbiological waste, pathological waste, blood products and sharps.

**INSTITUTIONAL SOLID WASTE.** Solid waste generated by educational, correctional, and other institutional facilities.

**LAND-CLEARING DEBRIS.** Solid waste which is generated solely from land-clearing activities.

**LANDFILL.** A disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

**MEDICAL WASTE.** Any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to this chapter, radioactive waste, or household waste as defined in 40 CFR § 261/4(b)(1) in effect on July 1, 1989, or those substances excluded from the definition of SOLID WASTE in this chapter.

**MUNICIPAL SOLID WASTE.** Any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed and disposed of through a public entity or municipal solid waste management service. MUNICIPAL SOLID WASTE does not include hazardous waste, sludge, or industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations.

**MUNICIPAL SOLID WASTE COLLECTOR.** Any public entity or municipal solid waste management service engaged in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within the service area, including any such entity engaged in such activities with respect to solid waste generated by others.

**OPEN DUMP.** Any facility or site where solid waste is disposed of that is not a sanitary landfill and that is not a facility for the disposal of hazardous waste, specifically including a solid waste disposal site that does not have a permit, and/or does not comply with the rules set forth in the North Carolina Solid Waste Management Rules, 15A NCAC.13b.

**PATHOLOGICAL WASTE.** Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

**PERSON.** Any individual, firm, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.

**PREMISES.** A definite portion of real estate including its appurtenance, a building, or part of a building.

**PROCESSING.** Any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amendable to recovery, storage or recycling; safe for disposal; or reduced in volume or concentration.

**PUTRESCIBLE.** Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal, and animal carcasses.

**RADIOACTIVE WASTE.** Waste containing any material, whether solid, liquid, or gas that emits ionizing radiation spontaneously.

**RECYCLABLE MATERIAL.** Those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

**RECYCLING.** Any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to the use in the form of raw materials or products.

**REFUSE.** All non-putrescible wastes, solid waste, other than garbage and ashes, from residences, commercial establishments, and institutions.

REGULATED MEDICAL WASTE. Blood and body fluids in individual containers in volumes greater than 20 ml, microbiological waste, and pathological waste that has not been treated pursuant to -state rules.

RESIDENTIAL VACATION RENTALS. The rental of any single-family dwelling, duplex, or unit in a multi-family dwelling, or any portion thereof, for occupancy, dwelling, lodging or sleeping purposes for any period of time less than 90 days. The term does not include other transient lodging such as hotels and motels, lodges, and bed and breakfast establishments, which are otherwise authorized under these regulations and which have been duly permitted or which are legal nonconforming uses.

RESIDENTIAL WASTE. Solid waste originating from private households (private single-family homes and apartments, condominiums, etc., not institutional residential facilities). Solid waste from a place of residences having three or more dwelling units is defined as commercial solid waste.

SANITARY LANDFILL. A facility for disposal of solid waste on land in sanitary manner in accordance with rules concerning sanitary landfill as defined in G.S. § 130A-290.

SCRAP TIRE. (Whole scrap tires are banned from disposal at the landfill) A tire that is no longer suitable for its origin at intended purpose because of wear, damage, or defect.

SHARPS. Needles, syringes, and scalpel blades.

SHORT-TERM RENTALS. See Residential Vacation Rentals

SLUDGE. Any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

SOLID WASTE. Any hazardous or non-hazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. SOLID WASTE does not include:

- (1) Fecal waste from fowls and animals other than humans;

(2) Solid or dissolved material in:

(a) Domestic sewage and sludge generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.

(b) Irrigation return flows.

(c) Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. § 143-215.1 by the Environmental Management Commission. However, any sludge that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this chapter.

(3) Oils and other liquid hydrocarbons controlled under G.S. Chapter 143, Article 21A. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this chapter.

(4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).

(5) Mining refuse covered by the North Carolina Mining Act, G.S. §§ 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. § 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this chapter.

(6) Recyclable material.

(7) Hazardous waste excluded pursuant to G.S. §§ 153A-136 and 153A-294.

SOLID WASTE RULES. The regulations governing solid waste management adopted by the Solid Waste Section of the Department of Environmental Quality in accordance with EPA guidelines and other Federal Regulations.

USED OIL. Any oil which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling has become unsuitable for its original purpose.

WHITE GOODS. Includes refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

The definitions set forth in G.S. § 130A-290 which are not expressly set forth in this chapter shall apply to and are hereby incorporated herein by reference to this chapter.

(Ord. 2020-04, passed 6-9-2020)

## § 50.05 STORAGE AND DISPOSAL.

(A) No person, owner, occupant, tenant, or lessee of any property may deposit, store or permit to accumulate any solid waste on property owned or occupied by the person, owner, occupant, tenant, or lessee that is not stored or disposed of as required by this chapter.

(B) The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid waste from his property at such reasonable intervals as will prevent a nuisance from arising which causes or creates the likelihood of injury to the health, safety, or welfare of another person or the likelihood of injury to adjoining property.

(C) Garbage and refuse shall be stored and/or sorted in a manner that will resist harborage to rodents and vermin and will not create a fire hazard.

(D) No owner, occupant, tenant, or lessee of any building or dwelling may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than 30 days.

(E) No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, freezer, or other item or piece of equipment that has a door or cover that cannot be opened from the inside, without first removing the door.

(F) No person or property shall have access to any solid waste services, including the drop off of solid waste at the Town Convenience Center without a billable utility account or contracted special service account in compliance with the appropriate fee schedule.

(G) No person may discard, dispose of, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at locations properly permitted for the deposit of solid waste.

(H) No person shall throw, scatter, spill, place, cause, or allow to be blown, scattered, spilled, thrown or placed, or otherwise dispose of any litter upon any public property or private property not owned by said violator within the town or into the waters of the town including, but not limited to, upon any public highway, public park, lake, river, stream, campground, forest land, recreational area, highway, road, street or alley; the occurrence of any of the foregoing acts resulting from transporting solid waste in a vehicle shall constitute a violation of this chapter.

(I) No person shall intentionally and willfully dump or deposit any solid waste material on the property owned by the violator or the property of another with or without the written consent of the property owner which is inconsistent with proper and lawful solid waste management and disposal practices.

(J) No person shall burn solid waste. Refer to § 90.03 for regulations regarding burning.

(K) Nothing in this chapter is intended to authorize the disposal of solid waste in any manner prohibited by federal or state laws or regulations.

(L) No contractor shall deposit solid waste at any town facility.

(M) Construction and demolition waste as defined herein will not be accepted at the Town Convenience Center; such debris may be accepted at the Watauga County Landfill or Avery County Landfill in accordance with their rules and regulations. Construction and demolition waste must be removed in accordance with this chapter and Chapter 94 of this Code of Ordinances. Limited collection of homeowner construction debris may be made available at the Town's discretion.

(N) Regulated medical, hazardous, and radioactive waste will not be accepted at the Town Convenience Center; such debris may be accepted at the Watauga County Landfill or Avery County Landfill in accordance with their rules and regulations.

(O) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

(P) No person shall bury solid waste in earth or submerge solid waste in water unless expressly permitted by this chapter or applicable federal and state law and regulations.

(Q) Pursuant to G.S. § 160A-3, no person shall dispose of hazardous waste within the Town Convenience Center.  
(Ord. 2020-04, passed 6-9-2020)

#### § 50.06 DEFINITION AND ABATEMENT OF SOLID WASTE NUISANCES.

(A) By the authority of the provisions of G.S. §160A-3, the storage, accumulation or presence of solid waste on public or private property in the area of jurisdiction of this chapter which is:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
- (2) A point of collection for pools or ponds of water; or
- (3) A point of concentration of gasoline, oil, or another flammable, toxic or explosive materials;
- (4) So located that there is a danger of falling, sliding or turning over; or

(5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces or metal, glass, or other rigid materials is hereby proclaimed and declared to be unlawful and a public nuisance. Such public nuisance shall be subject to abatement as provided in this chapter.

(B) Upon reasonable cause to believe that a public nuisance as defined above exists, the Enforcement Officer or his designee, and upon not less than ten days' notice to the occupant and owner of the property on which the alleged nuisance is located, shall make a determination of whether or not such nuisance does, in fact, exist. If the Enforcement Officer makes a determination that a public nuisance exists, he shall enter and serve upon the owner and occupant an order to remove, abate or remedy the nuisance within a reasonable period of time, but not more than 30 days.

(C) Upon failure of the owner or occupant of the property, or of the person responsible for placing such solid waste on the property to remove, abate or remedy the nuisance within the period the officer has allowed, pursuant to G.S. § 160A-3 an Enforcement Officer shall remove, abate or remedy the nuisance as provided in the order and charge the cost thereof to the owner and occupant. If such expense is not paid by the owner or occupant within 30 business days, it shall be a lien upon the land or on premises where the nuisance arose and shall be collected as a monetary debt against the owner and occupant.

(Ord. 2020-04, passed 6-9-2020)

#### **§ 50.07 ENFORCEMENT MEASURES AND REMEDIES.**

(A) The Town Manager may designate the Enforcement Officer(s) from the town staff, who shall have the authority and duty to perform inspections, issue citations, assess penalties and take enforcement actions. Also, the other departments of the town may accompany the Enforcement Officer to assist in administration and enforcement.

(B) The town may exercise remedies for violation of any provision of this chapter as allowed and authorized by the North Carolina General Statutes, including but not limited to civil penalties, equitable remedies, and criminal prosecution, as well as all remedies available under Chapter 11 of this Code of Ordinances. In addition, whenever the Enforcement Officer receives a proper, non-anonymous, written complaint alleging a violation of this chapter, he shall investigate the complaint, take whatever action is warranted (including, in his or her discretion, any appropriate informal measures deemed helpful toward procuring compliance with this chapter). The Enforcement Officer shall inform the complainant in writing what actions have been or will be taken. A warning may be issued

by the Enforcement Officer without fine when the officer is of the opinion that a violation of this chapter may be remedied without the necessity of prosecution; however, a warning citation may not be issued in the case where public health and/ or safety are endangered. Waiver of enforcement by the town of any provision of this chapter shall not prejudice the enforcement of remaining portions of this chapter.

(C) Civil enforcement and penalties; notice of violation. The Enforcement Officer may issue a notice of violation to any person who fails to comply with any provision of this chapter. The notice of violation shall contain a description of the violation, the date of inspection, a description of the action necessary for correction of the violation and the date (no more than ten business days from the date of the notice) that compliance is required. The notice shall also specify the amount of civil penalty that may be imposed should the violator fail to take corrective action within the time frame set forth for compliance with the chapter. The notice shall be hand delivered or mailed by certified or registered mail, return receipt requested, to the person or persons alleged to be in noncompliance. The Enforcement Officer shall sign a statement for his file of the date, time and manner of delivery. The failure to comply with the notice of violation by taking corrective action may result in any of the civil or criminal remedies set forth in Chapter 11 of this Code of Ordinances. Additionally, violation of any provision of this chapter shall be punishable as a misdemeanor as set forth in G.S. §14-4. Each days continuing violation shall be deemed a separate offense.

(Ord. 2020-04, passed 6-9-2020)

#### § 50.08 COLLECTION.

The town makes provisions for collection of residential and commercial solid waste on a weekly basis. Collection of solid waste on a more frequent basis may be provided upon request and as needed during weekdays subject to the current fee schedule and availability.

(Ord. 2020-04, passed 6-9-2020)

#### § 50.09 FRANCHISE REQUIRED.

It shall be unlawful for any person or persons, firm, corporation or any other entity, to operate a solid waste collection and/or disposal system, service or facility within the corporate limits of the town without first obtaining a franchise granted by ordinance of the Town Council, unless such service is otherwise contracted by the Town.

(Ord. 2020-04, passed 6-9-2020)

## § 50.10 FEES.

(A) Fees are charged by the town on a monthly basis to all improved properties within the town for the provision, or offer to provide, once-per-week solid waste collection and disposal service. The appropriate monthly fee shall be charged to the customer in conjunction with the Municipal Utility Account. Persons or properties not associated with a Municipal Utility Account may be provided solid waste services via a special contract and fee. The Town Council shall have the authority to establish rates for the management of solid waste, and to change the rates as necessary to meet solid waste collection and disposal costs. The town offers solid waste collection service to all improved properties within the corporate limits on a weekly basis, and all such properties shall be charged the established monthly fees regardless of whether or not the customer chooses to take advantage of the service. Non-utility account customers may be permitted to gain use of the Convenience Center at the sole discretion of the town per the appropriate fee schedule. All fees shall be published on the Fee Schedule as adopted by the Town Council from time to time.

(B) Additional charges, rates and both rental and lease fees for solid waste services may be levied by any person, firm or corporation to which a franchise for solid waste collection service has been granted by the Town Council. Any such charges, rates and fees must be expressly approved by the franchise ordinance.

(1) The town may remove, or cause to be removed, any litter, debris or solid waste deposited in violation of this chapter, § 94.02 of this Code of Ordinances, or state law.

(2) Any person who violates this chapter, § 94.02 of this Code of Ordinances, or state law regarding littering or dumping shall be subject to a fee in the amount of the current rate for a special sanitation collection or the actual cost of the removal, in addition to any other applicable penalties, as set forth on the town Fee Schedule.

(Ord. 2020-04, passed 6-9-2020)

## § 50.11 RECEPTACLES; PREPARATION OF SOLID WASTE.

(A) The owner of every premises shall be responsible for providing adequate solid waste receptacles in accordance with this section to store the solid waste generated by activities taking place on those premises between scheduled pickups or to contain adequate storage for seven days' refuse.

(B) Every premises shall be served by at least two of the receptacles specified in division (C) below and the town may require the owner to provide more than two if necessary, to accommodate the entire amount of trash generated by the property. ~~If the property owner does not desire town trash pickup, he or she may, with approval~~

~~by the Town Manager or his or her designee, be exempt from this requirement. However, such an exemption is not permitted for rental properties.~~ Under no circumstances may garbage be left by the roadside for town garbage pickup without approved receptacles and bins as described in division (C).

(C) The receptacles required by this section shall be 30- to 35-gallon containers made of galvanized metal, plastic, rubber or other material resistant to rust, corrosion or rapid deterioration. Each receptacle shall be watertight. Each receptacle shall have two handles and shall be covered with a tight-fitting cover at all times. All receptacles shall be located in an enclosed area that meets or exceeds the minimum specifications in § 50.12 and incorporated herein by reference. The purpose of the screening enclosure is to prevent animals from knocking over the trash cans, and to limit the negative impact of trash facilities on natural beauty and property values. Enclosures and trash facilities must be maintained in good condition and placed in a location acceptable to the Sanitation Department. Underground garbage bins, regardless of their condition or serviceability, are not permitted.

(D) The exact location of the receptacle shall be agreed upon by the owner and Director of Public Works or his or her designee, in consultation with the Code Enforcement Official. If the owner and Director are unable to reach mutual agreement upon the location to be used, the Public Works Director's decision shall be final.

(E) The owners of multi-family residential premises, upon obtaining the prior approval of the town, may use a dumpster container in lieu of the 30- to 35-gallon containers described in division (C) above.

(F) Non-residential customers, whose premises generates more than eight 30- to 35-gallon containers per week, may be required to obtain a dumpster in lieu of the 30- to 35-gallon containers. In those instances, the owner shall be notified by the Public Works Director of the need to acquire a dumpster. The owner may appeal the decision of the Public Works Director to the Town Manager within ten days of receipt of notice. If the owner fails to appeal the order of the Public Works Director, an adequate dumpster shall be obtained and provided within 60 days of receipt of the original notice. In the event of an unsuccessful appeal, the required dumpster shall be provided within 60 days of disposition of the appeal by the Town Manager.

(G) In requiring dumpsters for commercial establishments, the town shall take into consideration the nature of the waste being generated and the likelihood of spoilage or otherwise unsanitary conditions.

(H) All customers using dumpster containers must provide a suitable location for the dumpster(s) that provides access to the collection vehicle. In addition, the site provided must be such that the elevation of the dumpster meets the specifications required for convenient attachment with the equipment of the town, considering the weight of the dumpster, and settlement of the land over time. Continuing settlement may require a hard surface pad. All customers using dumpster containers must screen their dumpsters from view and keep them in good repair and appearance. Temporary dumpsters at construction sites are exempt from screening requirements.

(I) No person may damage, displace or otherwise interfere with solid waste receptacles or solid wastes stored or prepared for collection except with the consent of the owner, lessee or occupant of the premises where those receptacles or solid wastes are located.

~~(J) In the alternative to the receptacle standards set forth herein, a property owner may elect to utilize a Bear Resistant solid waste container. A solid waste container is approved as Bear Resistant if:~~

~~(1) The receptacle is specifically designed and marketed by its manufacturer as being bear proof or bear resistant by virtue of containing qualities and features specifically designed to prevent bears from accessing its contents;~~

~~(2) The receptacle is approved by the Town Manager or his or her designee as having sufficient bear resistant qualities or features, or~~

~~(3) The receptacle is certified as Bear Resistant by the Interagency Grizzly Bear Committee.~~

~~Any Bear Resistant solid waste container shall meet or exceed the following minimum standards or an approved equivalent:~~

~~(a) Sheet metal components shall be 14-gauge steel~~

~~(b) Metal frame components shall be 1/8" x 1 1/2"~~

~~(c) Expanded metal components shall be 1/2" #13~~

~~(d) Hinges shall be capable of supporting the required loads~~

~~(e) All structural components shall be welded together~~

~~(f) All exposed metal shall be painted with multiple coats of neutral or earth-toned epoxy paint to protect the structure from corrosion~~

~~(g) No sharp edges shall be present, which may poke, slice, or otherwise injure Town staff accessing the container~~

~~(h) Enclosures shall be capable of holding two (2) standard 35-gallon containers~~

~~(i) Containers shall not exceed 60" wide by 54" tall by 30" deep, without prior written approval.~~

All Residential Vacation Rentals operating within the Town are required to utilize and maintain in good working order a Bear Resistant container or containers, as described in § 50.12(B), on the premises used for such rental adequate to hold the amount of waste generated by the property. This requirement shall not apply to multi-family structures, where adequate solid waste receptacles are otherwise provided.

(Ord. 2020-04, passed 6-9-2020)

#### § 50.12 SOLID WASTE BIN SPECIFICATIONS.

(A) Residential Waste Bin Specification – The following specifications are for residential properties, excluding multi-family residential and residential vacation rentals:

(1) Dimensions. Bins to be five feet by two and one-half feet by three feet, three inches.

~~–(2B)~~ Bin for three containers to be seven and one-half feet by two and one-half feet by three feet, three inches.

~~– (3C)~~ For four containers, two standard bins shall be used.

~~– (4D)~~ No underground trash bins may be used.

~~– (5E)~~ All wood used shall be pressure treated. Other suitable exterior materials of similar durability and appearance are acceptable.

~~–(6F)~~ Bins shall have a "mailbox flag", visible from the road, for notifying town personnel when pickup is necessary.

~~–(7G)~~ Bins shall have a lid. Wood frame wire lids with hasps are encouraged.

~~\_\_\_\_\_ (8H)~~ All bins shall be situated on ground level.

~~(9I)~~ Location of bins shall be determined in consultation with Town Manager or his or her designee.

~~(10J)~~ Frames shall be constructed with two inches by four inches in thickness or stronger material.

~~(11K)~~ Pickets may be used. Maximum space between pickets shall not exceed three-fourths of an inch.

~~\_\_\_\_\_ (12L)~~ Alternate designs must be approved by the Town Manager or his or her designee.

~~\_\_\_\_\_ (13M)~~ All cans must fit entirely within the bin provided.

(B) Residential Bear Resistant Waste Bin Specification – In the alternative to the receptacle standards set forth herein, a property owner may elect to utilize a Bear Resistant solid waste container. A solid waste container is approved as Bear Resistant if:

(1) The receptacle is specifically designed and marketed by its manufacturer as being bear proof or bear resistant by virtue of containing qualities and features specifically designed to prevent bears from accessing its contents.

(2) The receptacle is approved by the Town Manager or his or her designee as having sufficient bear resistant qualities or features, or

(3) The receptacle is certified as Bear Resistant by the Interagency Grizzly Bear Committee.

Any Bear Resistant solid waste container shall meet or exceed the following minimum standards or an approved equivalent:

(a) Sheet metal components shall be 14-gauge steel

(b) Metal frame components shall be 1/8" x 1 1/2"

(c) Expanded metal components shall be 1/2"-#13

(d) Hinges shall be capable of supporting the required loads

(e) All structural components shall be welded together

(f) All exposed metal shall be painted with multiple coats of neutral or earth-toned epoxy paint to protect the structure from corrosion

(g) No sharp edges shall be present, which may poke, slice, or otherwise injure Town staff accessing the container

(h) Enclosures shall be capable of holding two (2) standard 35-gallon containers

(i) Containers shall not exceed 60" wide by 54" tall by 30" deep, without prior written approval.

(4) Bins shall have a "mailbox flag", visible from the road, for notifying town personnel when pickup is necessary.

(Ord. 2020-04, passed 6-9-2020)

§ 50.13 RECYCLING CENTER: RECYCLABLES; SEPARATED MATERIALS.

(A) The following items and/or materials will be accepted at the town's Recycling Center in accordance with the posted rules of operation:

- (1) Newspaper, magazines and mixed paper;
- (2) Aluminum and metal cans;
- (3) Green glass;
- (4) Brown glass;
- (5) Clear glass;
- (6) Cardboard;
- (7) Used motor oil (accepted by appointment only at the Public Works Building);
- (8) Batteries (accepted by appointment only at the Public Works Building);
- (9) Furniture (including mattresses);

(10) White goods (accepted at the Convenience Center as directed by attendant or special pickup scheduled with Public Works);

- (11) Number one and number two plastics.

(B) All items and/or materials listed herein must be deposited within a container specifically designated for those items and/or materials.

(C) It shall be unlawful for any person:

- (1) To place material at the Recycling Center in a container designated for a different material; and/or
- (2) To deposit any waste at the Recycling Center outside of the hours of normal operation.

(D) The Town Manager adopt additional rules of operation for the Recycling Center and shall post these rules at appropriate locations in the Center.

(E) The following items and/or materials may be collected by the town upon request of the customer as a special pickup, but not to exceed four pickups per 12-month period per address in total, when those items are generated by the customer and do not result directly from the operation of a commercial enterprise or the activities of a private contractor: Pickups exceeding the allotted four per 12-month period per address in total shall be subjected to an additional fee in accordance with cost of workers and trucks needed as outlined in the Schedule of Fees.

(1) Bagged leaves, only if collected by the homeowner and not private contractors. (If more than 20 bags are needed to be picked up at one time, an additional fee may be charged per extra bag in accordance with the Schedule of Fees);

(2) Appliances;

(3) Furniture, rugs, and other home goods not including mattresses;

(4) Garbage bins or wooden receptacles that are no longer wanted or needed;

(5) Yard trash, including limbs, shall be collected by the town under the same basis and conditions outlined above, however, the town shall collect no tree trunks, stumps, root balls, large limbs from view cuts or lot clearing and no limbs in excess of six inches in diameter shall be collected. Leaf bags and yard trash bags must be piled separately from limb piles;

(6) Carrion will be collected by Public Works by appointment request only. It will only be collected from the roadside, not from the area of the private property owned.

(Ord. 2020-04, passed 6-9-2020)

#### § 50.14 CHANGES IN STATE LAW.

Should G.S. §§ 160A-312, 153A-132.1, 153A-136, and 153A-292 or any section of the General Statutes of North Carolina incorporated herein by reference or otherwise referred to herein be changed or amended, or should such statutes require or mandate a difference procedure or change or impose new, different or additional requirements, then, in that event, this chapter shall be deemed to have been amended without further action to have complied with such new additional or amended requirements.

(Ord. 2020-04, passed 6-9-2020)

#### § 50.99 PENALTY.

(A) Any person that violates any provision of this chapter or any rule of the rules of operation for the Recycling Center as referenced above to this section shall be subject to the penalties as set forth herein.

(1) A first offense within a 12-month period shall subject the offender to a civil penalty in the amount of \$100;

(2) A second offense within a 12-month period shall subject the offender to a civil penalty of \$350;

(3) A third offence within a 12-month period shall subject the offender to a civil penalty in the amount of \$500;

(4) A fourth or subsequent offense within a 12-month period shall subject the offender to a civil penalty in the amount of \$500. Additionally, the town shall discontinue garbage collection services to this location unless and until the offender obtains and installs a bear and wildlife restraint trash container equal to or greater than the standards set forth in both this section and those utilized by the United States Forest Service, as promulgated through the United State Department of Agriculture.

(B) In addition to the penalties set forth herein, the town may also pursue any and all remedies available to it as set forth in § 11.01 of this Code of Ordinances.

(Ord. 2020-04, passed 6-9-2020)



# REPORT

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**TO:** Town Council  
**FROM:** Steve Smith  
**DATE:** April 13, 2021  
**SUBJECT:** February Finance and Budget Report

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**FOR THE PURPOSE OF:**

To report to Town Council current financial information

**ATTACHED FOR YOUR CONSIDERATION:**

Budget and Finance Report

**STAFF RECOMMENDATION:**

Review

**SIGNATURES:**

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Town Manager

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Town Clerk

TOWN OF BEECH MOUNTAIN  
 REVENUE & EXPENSE REPORT (UNAUDITED)  
 AS OF: FEBRUARY 28TH, 2021

10 -General Fund  
 FINANCIAL SUMMARY

% OF YEAR COMPLETED: 66.67

	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET
<u>REVENUE SUMMARY</u>						
Tax Revenue	3,935,988	161,882.35	3,969,175.20	0.00 (	33,187.20)	100.84
Interest Income	37,500	5,766.54	14,786.63	0.00	22,713.37	39.43
Miscellaneous Income	606,721	41,010.50	419,306.54	0.00	187,414.46	69.11
State Revenue	1,619,000	134,108.85	960,912.75	0.00	658,087.25	59.35
Miscellaneous Revenue	0	0.00	0.00	0.00	0.00	0.00
Fees	28,000	3,860.00	26,885.92	0.00	1,114.08	96.02
Gains/Losses	7,000	11,100.00	11,100.00	0.00 (	4,100.00)	158.57
Other Sources	<u>1,873,351</u>	<u>35,222.11</u>	<u>75,646.93</u>	<u>0.00</u>	<u>1,797,704.07</u>	<u>4.04</u>
<b>TOTAL REVENUES</b>	<b>8,107,560</b>	<b>392,950.35</b>	<b>5,477,813.97</b>	<b>0.00</b>	<b>2,629,746.03</b>	<b>67.56</b>
<u>EXPENDITURE SUMMARY</u>						
Administration	1,637,988	126,284.40	1,007,796.01	6,488.00	685,562.06	58.15
Tax Collections	45,246	3,436.95	35,492.08	0.00	13,497.17	70.17
Vistors Center	149,748	10,230.52	92,656.71	0.00	57,091.29	61.88
Police	1,152,421	90,125.99	728,303.00	6,671.19	417,446.81	63.78
Fire	478,343	21,878.24	361,822.90	0.00	116,520.10	75.64
Special Projects	0	0.00	0.00	0.00	0.00	0.00
Building Inspections	139,038	7,832.17	68,216.71	0.00	70,821.29	49.06
Planning	198,884	9,669.86	145,312.80	0.00	53,571.20	73.06
Vehicle Maintenance	139,410	7,496.61	80,104.19	1,365.86	57,939.95	58.44
Road Maintenance	3,174,619	157,049.23	2,184,427.85	7,726.59	982,715.68	69.04
Recreation	<u>991,863</u>	<u>70,776.53</u>	<u>761,914.01</u>	<u>40,598.16</u>	<u>211,224.83</u>	<u>78.70</u>
<b>TOTAL EXPENDITURES</b>	<b>8,107,560</b>	<b>504,780.50</b>	<b>5,466,046.26</b>	<b>62,849.80</b>	<b>2,666,390.38</b>	<b>67.11</b>
<b>REVENUE OVER/(UNDER) EXPENDITURES</b>	<b>0 (</b>	<b>111,830.15)</b>	<b>11,767.71 (</b>	<b>62,849.80) (</b>	<b>36,644.35)</b>	<b>0.00</b>

TOWN OF BEECH MOUNTAIN  
 REVENUE & EXPENSE REPORT (UNAUDITED)  
 AS OF: FEBRUARY 28TH, 2021

30 -Water/Sewer  
 FINANCIAL SUMMARY

% OF YEAR COMPLETED: 66.67

	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET
<u>REVENUE SUMMARY</u>						
Interest Income	3,000	9.26	260.33	0.00	2,739.67	8.68
Miscellaneous Income	1,500	75.00	632.54	0.00	867.46	42.17
State Revenue	0	0.00	0.00	0.00	0.00	0.00
Metered Sales & Fees	2,302,774	215,145.06	1,746,192.11	0.00	556,581.89	75.83
Gains/Losses	2,500	0.00	0.00	0.00	2,500.00	0.00
Other Sources	<u>141,246</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>141,246.00</u>	<u>0.00</u>
TOTAL REVENUES	2,451,020	215,229.32	1,747,084.98	0.00	703,935.02	71.28
<u>EXPENDITURE SUMMARY</u>						
W/S Administration	1,026,707	20,163.65	281,601.23	240.00	744,865.77	27.45
Water	899,161	47,460.52	649,317.46	3,706.29	246,137.25	72.63
Sewer	294,452	24,600.32	238,917.82	3,152.00	53,070.18	81.98
Taps & System	<u>230,700</u>	<u>69.70</u>	<u>128,721.59</u>	<u>998.38</u>	<u>100,980.03</u>	<u>56.23</u>
TOTAL EXPENDITURES	2,451,020	92,294.19	1,298,558.10	8,096.67	1,145,053.23	53.28
REVENUE OVER/(UNDER) EXPENDITURES	0	122,935.13	448,526.88	( 8,096.67)	( 441,118.21)	0.00

TOWN OF BEECH MOUNTAIN  
 REVENUE & EXPENSE REPORT (UNAUDITED)  
 AS OF: FEBRUARY 28TH, 2021

35 -Sanitation  
 FINANCIAL SUMMARY

% OF YEAR COMPLETED: 66.67

	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET
<u>REVENUE SUMMARY</u>						
Interest Income	850	1.67	34.32	0.00	815.68	4.04
Miscellaneous Income	47,949	7,143.15	54,554.17	0.00 (	6,605.17)	113.78
State Revenue	106	64.65	186.70	0.00 (	80.70)	176.13
Fees	590,300	51,503.54	426,954.10	0.00	163,345.90	72.33
Gains/Losses	0	0.00	0.00	0.00	0.00	0.00
Other Sources	0	0.00	0.00	0.00	0.00	0.00
<b>TOTAL REVENUES</b>	<b>639,205</b>	<b>58,713.01</b>	<b>481,729.29</b>	<b>0.00</b>	<b>157,475.71</b>	<b>75.36</b>
<u>EXPENDITURE SUMMARY</u>						
Sanitation	639,205	40,081.23	346,258.84	1,500.00	291,446.16	54.40
<b>TOTAL EXPENDITURES</b>	<b>639,205</b>	<b>40,081.23</b>	<b>346,258.84</b>	<b>1,500.00</b>	<b>291,446.16</b>	<b>54.40</b>
REVENUE OVER/(UNDER) EXPENDITURES	0	18,631.78	135,470.45 (	1,500.00) (	133,970.45)	0.00

**Town of Beech Mountain  
Monthly Financial Report  
Fiscal Year 2021**

**General Fund**

	Budget	Through the reported month												66%	% of Budget	
		July	August	September	October	November	December	January	February	March	April	May	June			YTD
Total Revenue	8,107,560	48,063	48,632	821,979	882,141	1,268,726	1,362,803	652,520	392,950						5,477,814	67.56%
Total Expenditures	8,107,560	763,218	557,415	1,404,700	499,765	613,344	481,493	641,332	502,337						5,463,603	67.39%
Total General Fund fund balance as of July 1st	8,136,845	8,136,845	7,421,690	6,912,907	6,330,186	6,712,562	7,367,944	8,249,254	8,260,443						8,136,845	
Revenues Less Expenditures		(715,155)	(508,783)	(582,721)	382,376	655,382	881,310	11,188	(109,386)						14,211	
Estimated change to Fund Balance		7,421,690	6,912,907	6,330,186	6,712,562	7,367,944	8,249,254	8,260,443	8,151,056	-	-	-	-	-	8,151,056	

**Water/Sewer Enterprise Fund**

Total Revenue	2,451,020	218,315	238,783	218,215	218,043	205,067	202,457	230,976	215,229						1,747,085	71.28%
Total Expenses	2,451,020	180,814	125,944	220,911	218,336	160,656	119,269	180,335	89,712						1,295,976	52.87%
Unrestricted Cash Reserves as July 1st	1,578,959	1,578,959	1,616,460	1,729,299	1,726,604	1,726,311	1,770,722	1,853,910	1,904,551						1,578,959	
Revenues Less Expenses		37,501	112,840	(2,696)	(293)	44,411	83,188	50,641	125,518						451,110	
Estimated Change in Cash Reserves		1,616,460	1,729,299	1,726,604	1,726,311	1,770,722	1,853,910	1,904,551	2,030,069	-	-	-	-	-	2,030,069	

**Cash & Investments All FUNDS**

Fund	July	August	September	October	November	December	January	February	March	April	May	June
Branch Banking and Trust (Pooled) #1	460,593	232,247	2,546,439	1,932,168	2,686,260	2,913,570	3,505,582	3,389,684				
North Carolina Capital Management Trust #2	1,186,765	1,311,822	575,186	4,754,699	4,884,094	5,163,360	5,326,324	5,482,975				
North Carolina Capital Management Trust #3	5,121,061	5,121,351	4,021,465	-	-	-	-	-				
Mountain Community - Certificates of Deposit #4	103,750	103,750	103,359	103,359	103,359	103,359	103,359	103,359				
First Community - Savings Account #5	508,359	508,359	508,400	508,400	508,400	508,400	508,400	508,400				
North Carolina Capital Management Trust #6	366,768	366,782	366,788	1,207,205	1,207,218	1,207,234	1,207,244	1,207,254				
North Carolina Capital Management Trust #7	840,346	840,393	840,413	-	-	-	-	-				
North Carolina Capital Management Trust #8	217,891	217,960	217,964	217,966	218,029	218,030	218,032	218,099				
North Carolina Capital Management Trust #9	72,975	72,979	72,983	72,984	72,984	72,985	72,985	72,986				
Total Cash & Investments	8,878,508	8,775,643	9,252,997	8,796,781	9,680,344	10,186,939	10,941,926	10,982,757	-	-	-	-

**Transfers for the month**

No transfers for the month of February 2021





# REPORT

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**TO:** Town Council  
**FROM:** Daniel Davis  
**DATE:** April 13, 2021  
**SUBJECT:** Department of Infrastructure Report

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**FOR THE PURPOSE OF:**  
Water, Sewer, Public Works and Sanitation Monthly Report

**SIGNATURES:**

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Town Manager

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Town Clerk

Town of Beech Mountain  
Water Treatment Monthly Operation Report

March 2021 flow totals:

**Raw Water:** 17.89 MG  
                   .578 MGD Avg  
                   .432 Min MGD  
                   .730 Max MGD

**Finished Water:** 16.89 MG  
                       .545 MGD Avg  
                       .418 Min MGD  
                       .674 Max MGD

All Bacteria samples taken were absent of Coliform Bacteria.

All daily tests were in compliance.

Grassy Gap Wastewater Plant

Total Flow	1.484	MG
Average Flow	0.053	MGD
Daily Max	0.1	MGD
Daily Min	0.024	MGD
Limit	0.08	MGD

Pond Creek Wastewater Plant

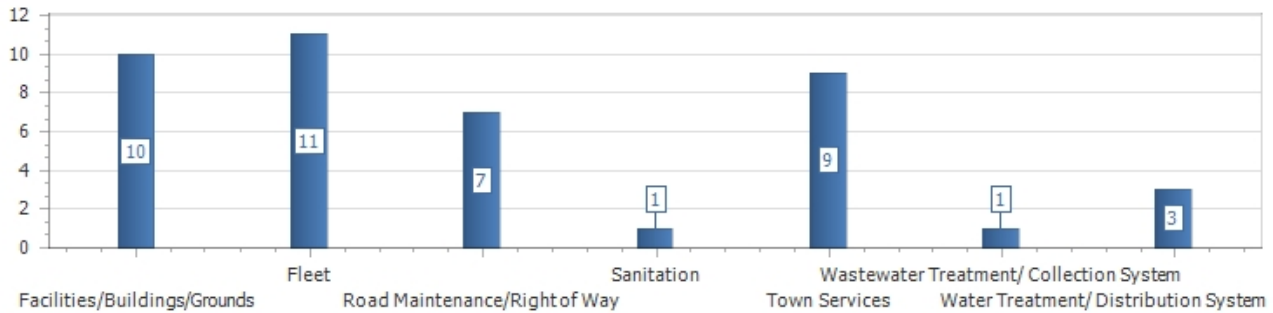
Total Flow	8.639	MG
Average Flow	0.308	MGD
Daily Max	0.74	MGD
Daily Min	0.13	MGD
Limit	0.4	MGD

## Completed WOs by Site Analysis

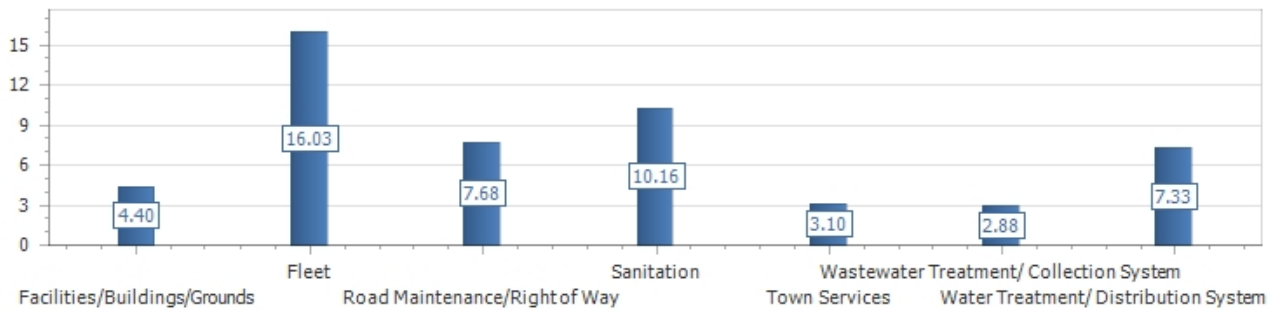
Date Printed: 04/01/2021

Page 1 of 1

### Total



### Average days to close



Site	Total	Average days to close
Facilities/Buildings/Grounds	10	4.40
Fleet	11	16.03
Road Maintenance/Right of Way	7	7.68
Sanitation	1	10.16
Town Services	9	3.10
Wastewater Treatment/ Collection System	1	2.88
Water Treatment/ Distribution System	3	7.33

### Report Parameters

Filter: Contains([ WO Status ], 'Completed') And Not Contains([ Source Site ], 'Parks & Rec')

Search:

Advanced Filters: [ Originated ] Between '03/01/2021' And '03/31/2021'

Tags:

## Summary

Date Printed: 04/01/2021

Page 1 of 3

Work Order #	WO Status	Origin	Priority	Work Type	Work Category	Site	Source Asset	Source Location	Assigned To	Originated	Expected	Completed	Cost \$	Hour(s)
1088	Completed	PM	2 - High		Other-Water Treatment	Water Treatment/Distribution System		Buckeye Water Treatment Plant	Daniel Davis	03/01/2021	03/02/2021	03/01/2021	0.00	0.00
1095	Completed	PM	2 - High		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/02/2021	03/04/2021	03/12/2021	0.00	0.00
1109	Completed	Non-PM	2 - High		Grading	Road Maintenance/Right of Way	LOCUST RIDGE RD		Matthew Clawson	03/09/2021		03/12/2021	0.00	0.00
1111	Completed	Non-PM	2 - High		Gravity Sewer Main Blockage	Wastewater Treatment/Collection System		Wastewater Service Area	Daniel Davis	03/09/2021		03/12/2021	0.00	0.00
1112	Completed	Non-PM	2 - High		Culvert Maintenance	Road Maintenance/Right of Way	GRASSY GAP LOOP RD		Matthew Clawson	03/10/2021		03/23/2021	0.00	0.00
1124	Completed	Non-PM	2 - High		Debris Removal	Road Maintenance/Right of Way	WILD IRIS RD		Matthew Clawson	03/16/2021		03/23/2021	0.00	0.00
1129	Completed	Non-PM	2 - High		Washout or Erosion	Road Maintenance/Right of Way	PINE RIDGE RD		Whitney Spagnolo	03/19/2021		03/23/2021	0.00	0.00
1130	Completed	Non-PM	2 - High		Customer Complaint	Sanitation	Special Pickup	Beech Mountain Collection Route	Whitney Spagnolo	03/19/2021		03/29/2021	0.00	0.00
1132	Completed	PM	2 - High		Other-Water Treatment	Water Treatment/Distribution System		Buckeye Water Treatment Plant	Daniel Davis	03/21/2021	03/22/2021	04/01/2021	0.00	0.00
1141	Completed	PM	2 - High		Custodial	Facilities/Buildings/Grounds		PUD PWD Office	Whitney Spagnolo	03/23/2021	03/24/2021	03/29/2021	0.00	0.00
1091	Completed	Non-PM	3 - Medium		Water Leak	Town Services	110 SLOPESIDE RD		Daniel Davis	03/01/2021		03/12/2021	0.00	0.00
1092	Completed	Non-PM	3 - Medium		Brakes	Fleet	2008 Peterbilt Tanem Dump Truck	Public Works Shop	David Clawson	03/01/2021		03/29/2021	0.00	0.00
1094	Completed	Non-PM	3 - Medium		Oil Change	Fleet	#808	Police Station*	Whitney Spagnolo	03/01/2021		03/29/2021	0.00	0.00
1096	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/02/2021	03/03/2021	03/12/2021	0.00	0.00
1098	Completed	Non-PM	3 - Medium		Major Repair	Fleet	F450 Dump	Public Works Shop	David Clawson	03/02/2021		03/29/2021	0.00	0.00
1099	Completed	Non-PM	3 - Medium		Water Meter Read	Town Services	126 CHERRY BROOK LN		Water Plant	03/02/2021		03/03/2021	0.00	0.00

## Summary

Date Printed: 04/01/2021

Page 2 of 3

Work Order #	WO Status	Origin	Priority	Work Type	Work Category	Site	Source Asset	Source Location	Assigned To	Originated	Expected	Completed	Cost \$	Hour(s)
1101	Completed	Non-PM	3 - Medium		Water Meter Read	Town Services	102 SKIVIEW LN #4		Water Plant	03/03/2021		03/04/2021	0.00	0.00
1102	Completed	Non-PM	3 - Medium		Data Log	Town Services	229 BIRCHWOOD 14H		Water Plant	03/04/2021		03/05/2021	0.00	0.00
1103	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/05/2021	03/06/2021	03/12/2021	0.00	0.00
1107	Completed	Non-PM	3 - Medium		Major Repair	Fleet	2004 160 CLC Excavator Trackhoe	Public Works Shop	David Clawson	03/08/2021		03/29/2021	0.00	0.00
1108	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/09/2021	03/10/2021	03/12/2021	0.00	0.00
1113	Completed	Non-PM	3 - Medium		Grading	Road Maintenance/Right of Way	ASTER TRL		Matthew Clawson	03/10/2021		03/12/2021	0.00	0.00
1115	Completed	Non-PM	3 - Medium		Water Meter Read	Town Services	166 CHESTNUT WAY		Water Plant	03/11/2021		03/12/2021	0.00	0.00
1116	Completed	Non-PM	3 - Medium		Brakes	Fleet	2014 Caterpillar Backhoe	Public Works Shop	David Clawson	03/11/2021		03/31/2021	0.00	0.00
1117	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/12/2021	03/13/2021	03/12/2021	0.00	0.00
1118	Completed	Non-PM	3 - Medium		Major Repair	Fleet	2004 160 CLC Excavator Trackhoe	Public Works Shop	David Clawson	03/12/2021		03/29/2021	0.00	0.00
1119	Completed	Non-PM	3 - Medium		Grounds Maintenance	Water Treatment/Distribution System	C-80		Whitney Spagnolo	03/12/2021		03/23/2021	0.00	0.00
1121	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/16/2021	03/17/2021	03/16/2021	0.00	0.00
1122	Completed	Non-PM	3 - Medium		Tires	Fleet	Sterling Vac Truck	Public Works Shop	David Clawson	03/16/2021		03/23/2021	0.00	0.00
1127	Completed	Non-PM	3 - Medium		Valve Maintenance	Town Services	115 N PINNACLE RIDGE RD		Daniel Davis	03/17/2021		03/23/2021	0.00	0.00
1128	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/19/2021	03/20/2021	03/23/2021	0.00	0.00
1131	Completed	Non-PM	3 - Medium		Washout or Erosion	Road Maintenance/Right of Way	CLUB HOUSE RD		Matthew Clawson	03/19/2021		03/23/2021	0.00	0.00
1136	Completed	Non-PM	3 - Medium		Oil Change	Fleet	#802	Police Station*	David Clawson	03/22/2021		03/29/2021	0.00	0.00

# Summary

Date Printed: 04/01/2021

Page 3 of 3

Work Order #	WO Status	Origin	Priority	Work Type	Work Category	Site	Source Asset	Source Location	Assigned To	Originated	Expected	Completed	Cost \$	Hour(s)
1140	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/23/2021	03/24/2021	03/23/2021	0.00	0.00
1142	Completed	Non-PM	3 - Medium		Oil Change	Fleet	F250	Public Works Shop	David Clawson	03/24/2021		03/29/2021	0.00	0.00
1144	Completed	PM	3 - Medium		Custodial	Facilities/Buildings/Grounds		PW Utilities Office	Daniel Davis	03/26/2021	03/27/2021	03/29/2021	0.00	0.00
1148	Completed	Non-PM	3 - Medium		Water Meter Read	Town Services	507 PINE RIDGE RD		Water Plant	03/29/2021		03/30/2021	0.00	0.00
1097	Completed	Non-PM	4 - Low		Sink Hole	Road Maintenance/Right of Way	BRIARWOOD LN		Daniel Davis	03/02/2021		03/23/2021	0.00	0.00
1123	Completed	Non-PM	4 - Low		Water Line Locate (811)	Town Services	105 N PINNACLE RIDGE RD		Daniel Davis	03/16/2021		03/23/2021	0.00	0.00
1126	Completed	Non-PM	4 - Low		Other-Taps and Systems	Town Services	106 COLUMBINE LN		Daniel Davis	03/17/2021		03/17/2021	0.00	0.00
1090	Completed	PM	5 - Spare Time		Maintenance	Fleet	2018 F150 Infrastructure	Public Works Shop	Whitney Spagnolo	03/01/2021	03/02/2021	03/10/2021	0.00	0.00
1135	Completed	PM	5 - Spare Time		Maintenance	Fleet	Ford F150	Public Works Shop	Whitney Spagnolo	03/22/2021	03/23/2021	03/29/2021	0.00	0.00
<b>Records Selected: 42</b>												<b>Total Cost \$</b>	<b>Total Hrs</b>	
												<b>0.00</b>	<b>0.00</b>	

Report Parameters

Filter: Contains([ WO Status ], 'Completed') And Not Contains([ Source Site ], 'Parks & Rec')

Search:

Advanced Filters: [ Originated ] Between '03/01/2021' And '03/31/2021'

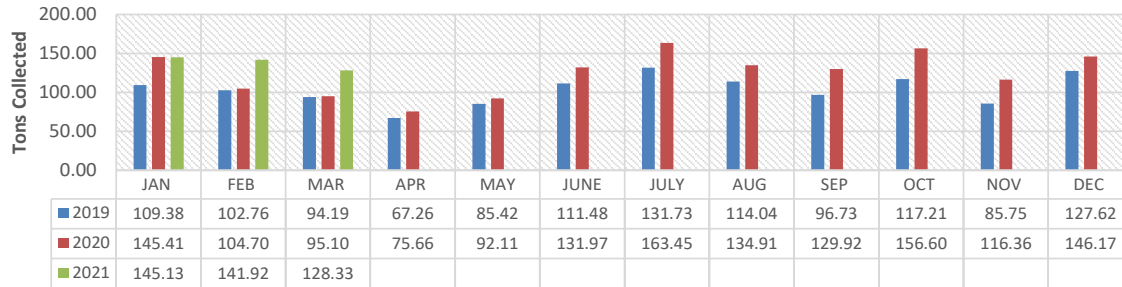
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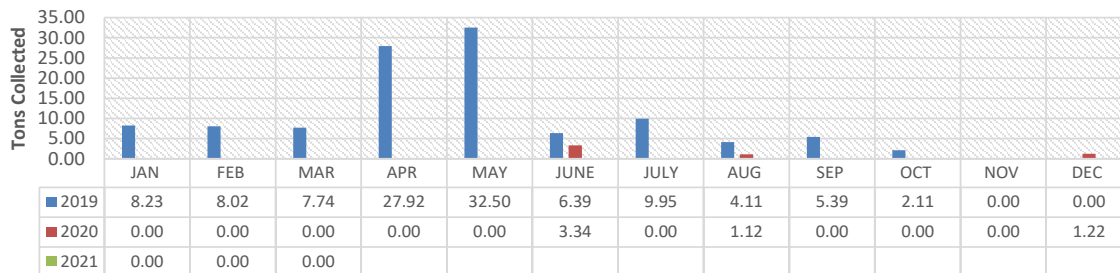
Town of Beech Mountain  
Public Works Department  
Monthly Report

2019	SOLID WASTE	CONSTRUCTION MATERIAL	RECYCLING						--ROAD MAINTENANCE--					
			RECYCLED METAL	PAPER	PLASTIC	GLASS	ALUMINUM	CARDBOARD	ROADS GRADED	STABILIZING STONE	POT HOLES REPAIRED	WASH OUTS	DITCHES PULLED	ROADWAYS MOWED
JAN	109.38	8.23	2.24	1.25	0.56	3.54	1.95	13.00	0	0	0	2	1	0
FEB	102.76	8.02	1.94	2.18	0.60	2.47	1.31	5.00	11	5	2	0	4	0
MAR	94.19	7.74	6.14	1.68	0.40	2.12	1.02	6.00	9	2	0	0	10	0
APR	67.26	27.92	2.90	0.00	0.95	0.00	0.00	2.00	0	0	12	1	1	0
MAY	85.42	32.50	4.60	1.51	1.03	2.96	1.54	4.00	5	2	7	4	2	11
JUNE	111.48	6.39	2.00	1.05	0.65	4.39	1.47	8.00	45	4	6	12	22	30
JULY	131.73	9.95	3.25	1.16	1.07	2.86	0.32	8.00	20	3	3	2	4	12
AUG	114.04	4.11	0.00	1.40	1.18	5.54	2.48	5.52	12	5	0	2	0	16
SEP	96.73	5.39	0.00	1.73	0.90	3.24	0.00	0.00	10	0	6	0	4	8
OCT	117.21	2.11	0.00	1.13	0.76	2.34	1.85	4.92	12	1	9	2	6	0
NOV	85.75	0.00	0.00	0.79	0.50	0.00	0.00	4.65	12	0	4	0	6	0
DEC	127.62	0.00	2.15	1.00	0.73	0.00	3.60	3.08	2	2	6	0	0	0
YTD TOTALS	1243.57	112.36	25.22	14.88	9.33	29.46	15.54	64.17	138	24	55	25	60	77
2020	SOLID WASTE	CONSTRUCTION MATERIAL	RECYCLING						--ROAD MAINTENANCE--					
			RECYCLED METAL	PAPER	PLASTIC	GLASS	ALUMINUM	CARDBOARD	ROADS GRADED	STABILIZING STONE	POT HOLES REPAIRED	WASH OUTS	DITCHES PULLED	ROADWAYS MOWED
JANUARY	145.41	0.00	1.75	0.85	0.81	2.50	0.39	0.00	10	1	4	1	2	0
FEBRUARY	104.70	0.00	0.00	0.54	0.44	1.71	0.38	6.44	0	0	6	4	1	0
MARCH	95.10	0.00	2.85	0.71	0.43	2.54	0.42	3.75	11	1	many	7	1	0
APRIL	75.66	0.00	4.20	1.06	0.69	2.14	0.56	0.00	35	2	3	7	2	0
MAY	92.11	0.00	1.75	0.99	0.52	2.26	0.42	5.05	18	1	1	1	2	1
JUNE	131.97	3.34	2.63	1.03	0.69	2.13	0.35	5.69	14	2	10	8	7	15
JULY	163.45	0.00	4.68	1.53	1.46	5.96	0.39	7.22	25	4	many	10	many	40
AUGUST	134.91	1.12	1.50	8.15	8.63	2.89	0.94	5.26	20	5	many	many	many	35
SEPTEMBER	129.92	0.00	3.00	1.72	1.31	6.45	1.21	5.55	5	2	many	0	10	0
OCTOBER	156.60	0.00	4.00	1.22	1.26	3.19	0.41	0.00	30	5	20	10	15	0
NOVEMBER	116.36	0.00	2.00	0.94	0.55	2.76	0.39	4.73	5	0	5	10	10	0
DECEMBER	146.17	1.22	2.00	0.90	0.89	2.10	0.36	3.42	0	0	0	0	0	0
YTD TOTALS	1492.36	5.68	30.36	19.64	17.68	36.63	6.22	47.11	173	23	49	58	50	91
2021	SOLID WASTE	CONSTRUCTION MATERIAL	RECYCLING						--ROAD MAINTENANCE--					
			RECYCLED METAL	PAPER	PLASTIC	GLASS	ALUMINUM	CARDBOARD	ROADS GRADED	STABILIZING STONE	POT HOLES REPAIRED	WASH OUTS	DITCHES PULLED	ROADWAYS MOWED
JANUARY	145.13	0.00	1.50	0.51	0.48	2.59	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
FEBRUARY	141.92	?	1.50	0.62	0.52	2.14	0.40	0.00	5	25	25			
MARCH	128.33	?	3.73	1.08	0.44	0.00	0.00	5.13	11	8	25	10	11	
APRIL														

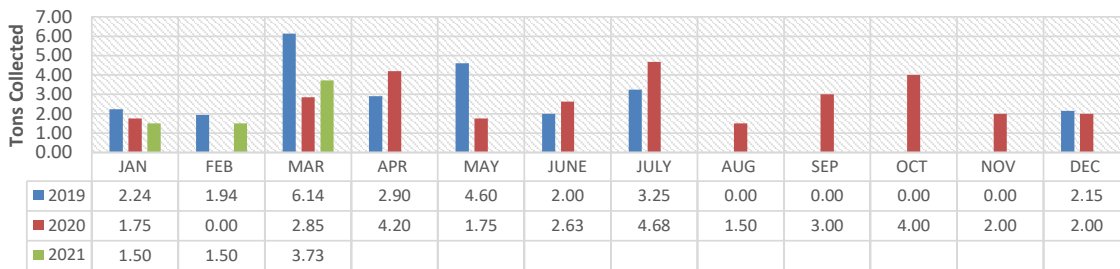
### Solid Waste



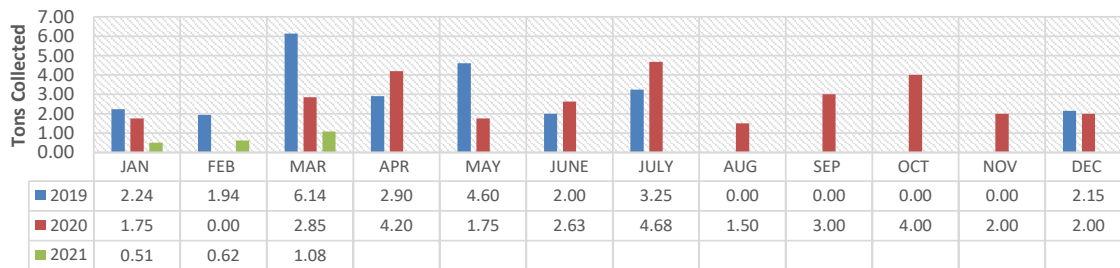
### Construction Material



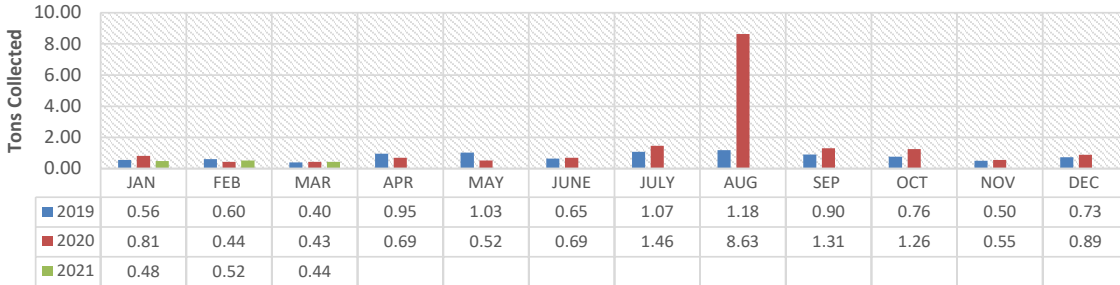
### Recycled Metal



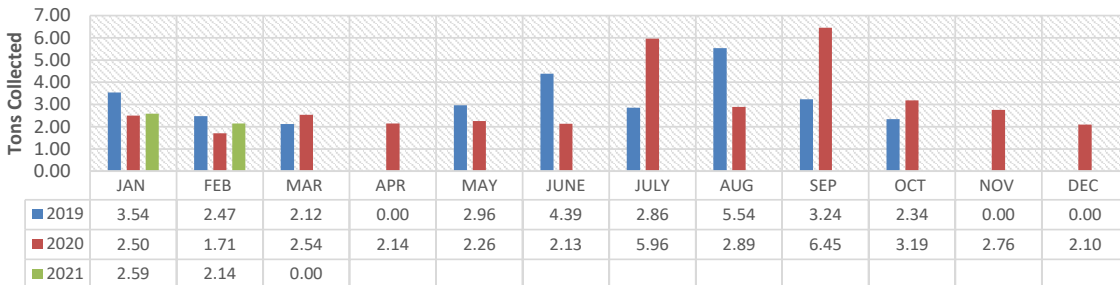
### Recycled Paper



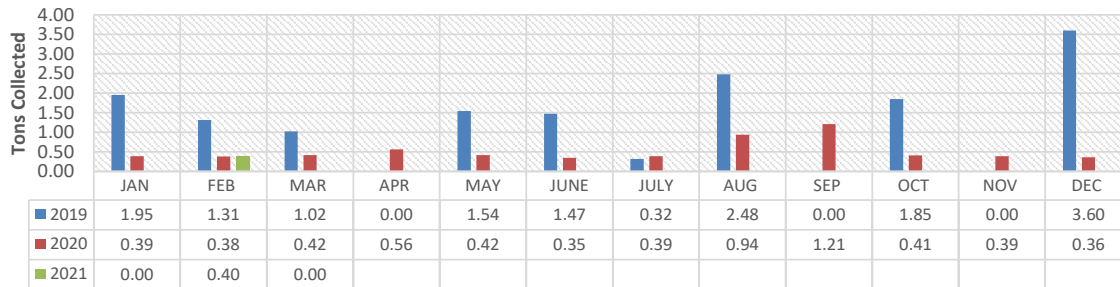
### Recycled Plastic



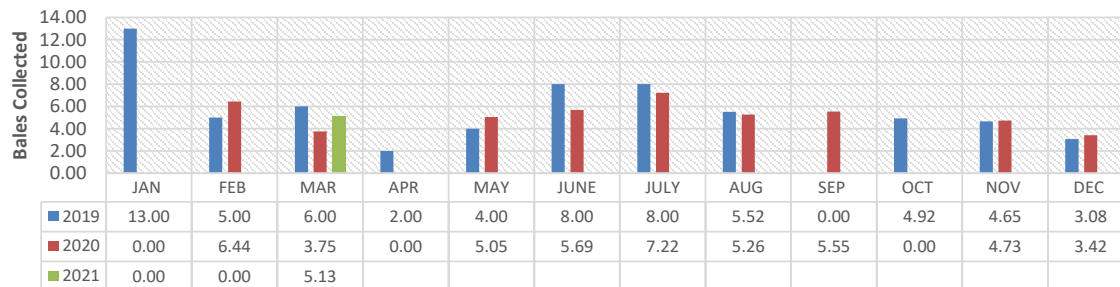
### Recycled Glass



### Recycled Aluminum



### Recycled Cardboard







# REPORT

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**TO:** Town Council  
**FROM:** Bob Pudney  
**DATE:** April 13, 2021  
**SUBJECT:** Fire Department Monthly Report

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**SIGNATURES:**

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**Town Manager**

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**Town Clerk**

**BEECH MOUNTAIN FIRE DEPARTMENT  
Monthly Report  
March 31, 2021**

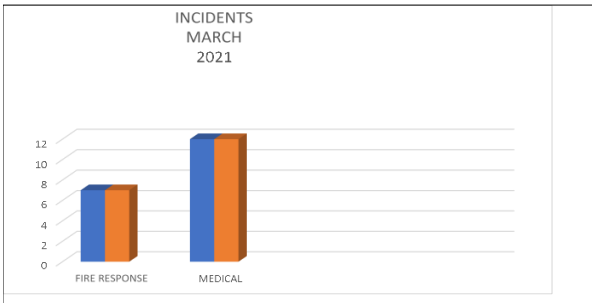
EVENT	THIS PERIOD	SAME PERIOD LAST YEAR	FISCAL YTD
FIRE CALLS	11	7	103
MEDICAL CALLS	7	7	119
FIRE SAFETY INSPECTIONS	2	0	6
PUBLIC EDUCATION	0	0	0
FIRE HYDRANT INSPECTIONS	0	0	4
TRAINING HOURS	173	310	1789
MEETINGS	6	6	50

**COMMENTS:**

Membership Recruitment Program.

ANNUAL HOSE TESTING

BUDGETS





# REPORT

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**TO:** Mayor & Town Council  
**FROM:** Sean Royall  
**DATE:** April 13, 2021  
**SUBJECT:** March 2021 Recreation Report

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**FOR THE PURPOSE OF:**  
Review by Town Manager and Council

**SIGNATURES:**

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Town Manager

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Town Clerk



## February 2021 Recreation Report

### Facility Report

Finance Report

Total Monthly Revenue	\$5,637.50
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### Check-In Report

Member Visits	599
Non-Member Visits	107

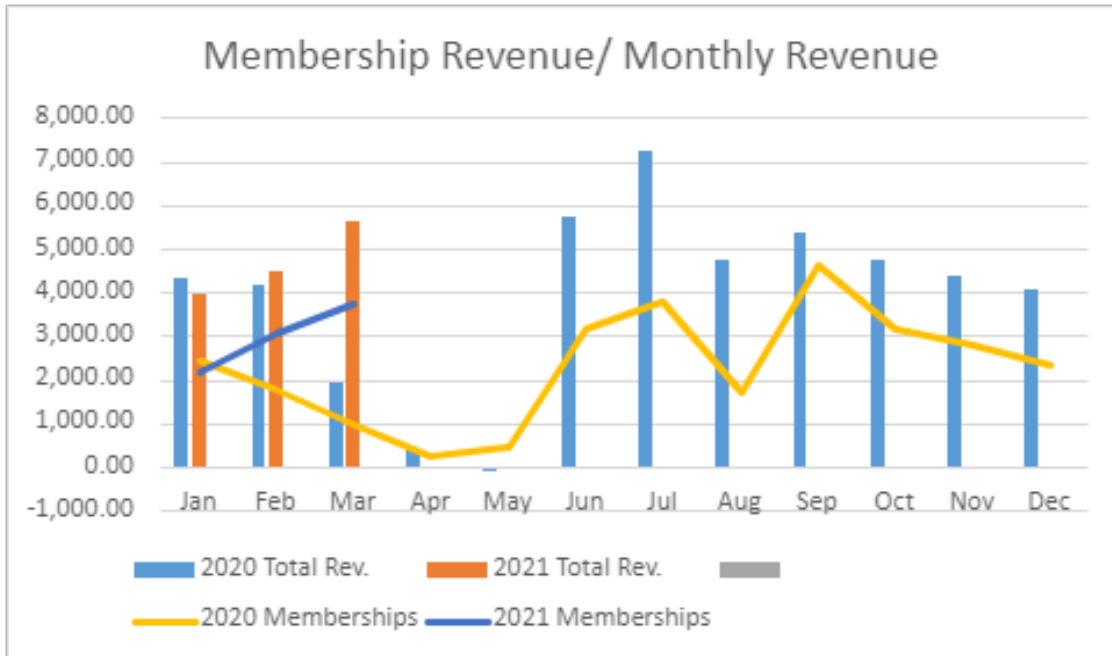
### Membership Report

Total Memberships - \$3,755.00

<b>Family Annual \$2,525.00</b>		
Active	Passes Expired (not renewed)	Passes sold
112	3	12
<b>Individual Annual \$1,100.00</b>		
Active	Passes Expired (not renewed)	Passes sold
116	4	9
<b>Week Passes \$130.00</b>		
	Individual	Family
	2	3

March Total Revenue 2020 = \$1933.30  
2021 = \$5,637.50

Total Membership \$975.00  
\$3,755.00

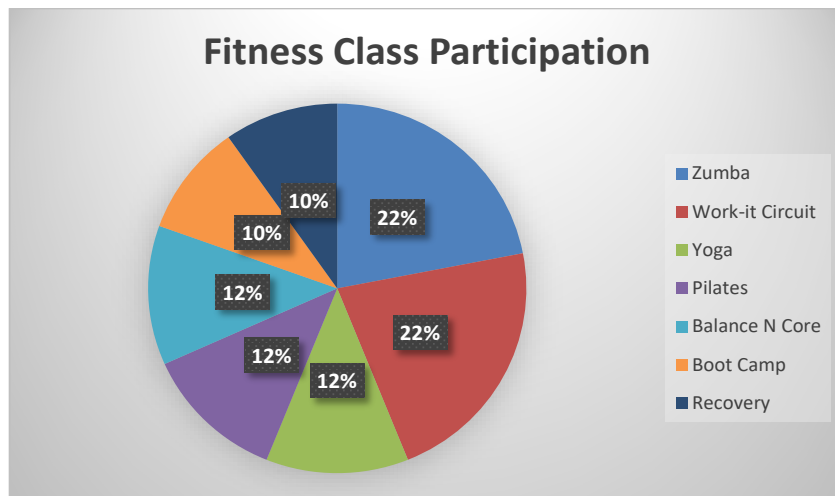


## Fitness Report

Participants:

### Number of classes offered in the month/ Participants

Zumba	9	45
Work-it Circuit	9	49
Yoga	5	17
Pilates	5	21
Balance N Core	5	12
Boot Camp	4	26
Recovery	4	13
PT		67



## Event/Outdoor Report

Participants:

Emerald Outback Trail	3291
Mixology Night	\$260.00

Director's Notes:

- Gutters have been replaced.
- Playground and trail excavator have been funded by TDA and on put on order.

Respectfully Submitted,

Sean Royall  
 Parks and Recreation Director  
 Town of Beech Mountain  
 April 1, 2021





# REPORT

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**TO:** Mayor and Town Council  
**FROM:** Tim Barnett  
**DATE:** April 13, 2021  
**SUBJECT:** Police Department Monthly Report

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**SIGNATURES:**

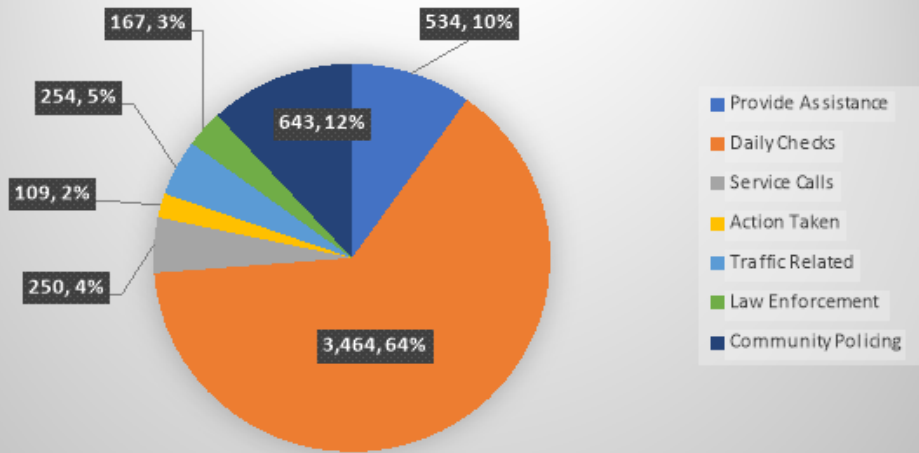
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**Town Manager**

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**Town Clerk**

### 2021 Monthly Condensed Calls





# REPORT

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**TO:** Mayor and Town Council  
**FROM:** Kate Gavenus  
**DATE:** April 13, 2021  
**SUBJECT:** TDA April Report

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**FOR THE PURPOSE OF:**

This report gives highlights of the current marketing and media coverage for the town, along with the resulting revenues and visitor counts, as well as economic news for existing and new businesses.

**SIGNATURES:**

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**Town Manager**

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**Town Clerk**

**Beech Mountain TDA Report  
To Town Council  
April 2021**

**Marketing/Media:**

An extensive article, featuring many townspeople, will be in High Country Magazine this month. It focuses on the history of Beech Mountain, the leaders who created the Town of Beech Mountain, and the tremendous success the town is now experiencing.

Marketing this month continues to feature the 40<sup>th</sup> anniversary of the town, as well as our Mountain Heritage Trout Waters designation. We will have an article on our trout waters in the Angler Magazine, and in the online version as well. We are continuing to receive dozens of requests for Quilt Trail maps each week. Driving trail concepts have become hugely popular across the nation.

**Here are some examples of media coverage received in March:**

**High Country Press:** <https://www.hcpres.com/news/busy-2020-21-ski-season-closes-with-a-bang-this-weekend-with-celebrations-at-each-area-resorts.html>

**Asheville.com:** <https://www.asheville.com/news/2021/03/town-of-beech-mountain-asks-for-throwback-photos-in-celebration-of-40th-birthday/>

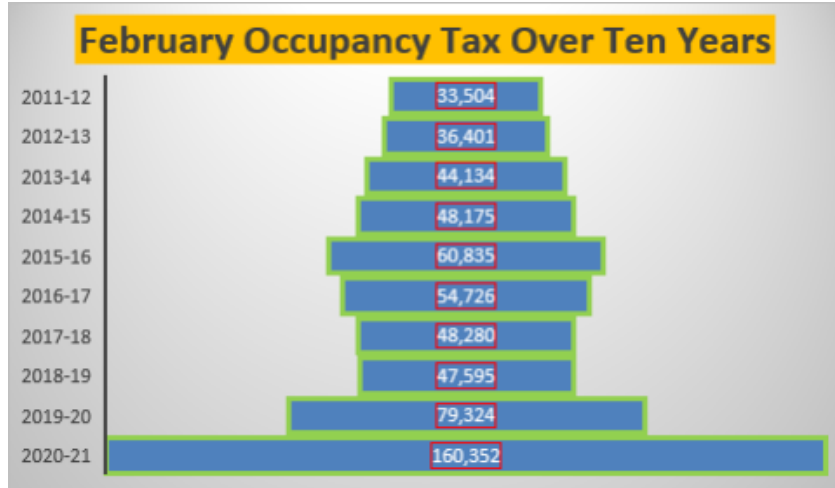
**Avery Journal:** [https://www.averyjournal.com/news/mooradians-leave-behind-1-million-for-local-organizations/article\\_61cd65c7-6992-5d88-98a7-44d44c78a9e3.html](https://www.averyjournal.com/news/mooradians-leave-behind-1-million-for-local-organizations/article_61cd65c7-6992-5d88-98a7-44d44c78a9e3.html)

**Southern Living:** <https://www.southernliving.com/travel/north-carolina/banner-elk-nc>

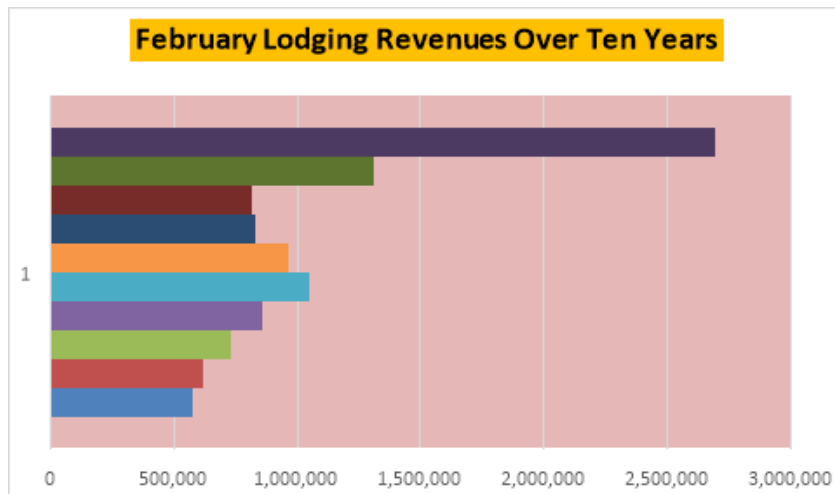
**Southernliving.com:** <https://www.southernliving.com/souths-best/outdoor-adventures?slide=6612e264-7256-467f-b4dc-4db455863c50#6612e264-7256-467f-b4dc-4db455863c50>

**Results:**

There were **383 visitors in the Visitor Center** during the month of March, which was fewer than the 491 visitors received in March 2020. **Occupancy tax of \$160,352 was received in the month of March (from February overnight stays). This was 102.15% higher than the \$79,324 collected in February of 2020.** This is the second highest total of any single month since the beginning of occupancy tax collections. Last month's collection was the highest ever recorded.



Total revenues for the lodging industry on Beech Mountain have topped \$16,000,000, with four reporting months left in the fiscal year.

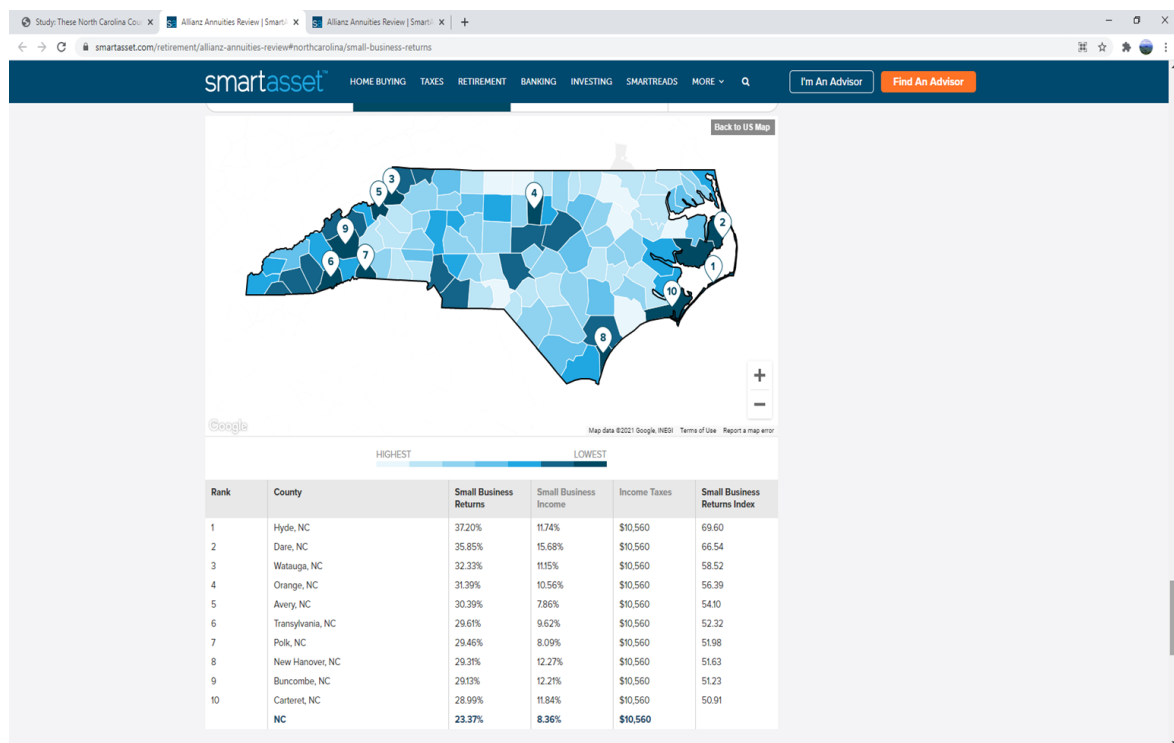


## April 2021 Economic Development News

**On Beech Mountain: Christie Village**, a long-time lodging business on Beech Mountain, is in the process of recovering from a fire which took place in mid-February. They are focusing on getting the undamaged section of the complex ready for occupancy. The damaged section will be demolished, and possibly re-built. Christie Village appreciates working with Jeff Fish, Town Inspections, on this project. They hope to have lodging back online for summer.

**New businesses:** Town staff have been approached with several business concepts which would work very well with the town's esthetic. We have also had some talks regarding existing commercial space or space that will become available this year.

**In the Area:** Smartasset.com contains a study on the value of small businesses in the U.S. It is broken down by state and county. Avery and Watauga Counties are both excellent locations for small businesses to earn strong revenues. For the full report, go to <https://smartasset.com/retirement/allianz-annuities-review#northcarolina/small-business-returns>





# REPORT

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**TO:** Town Council  
**FROM:** Preston Yates  
**DATE:** April 13, 2021  
**SUBJECT:** Planning and Inspections Report 2021-03

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**FOR THE PURPOSE OF:**  
Department of Planning and Inspections report on monthly activities.

**SIGNATURES:**

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Town Manager

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Town Clerk

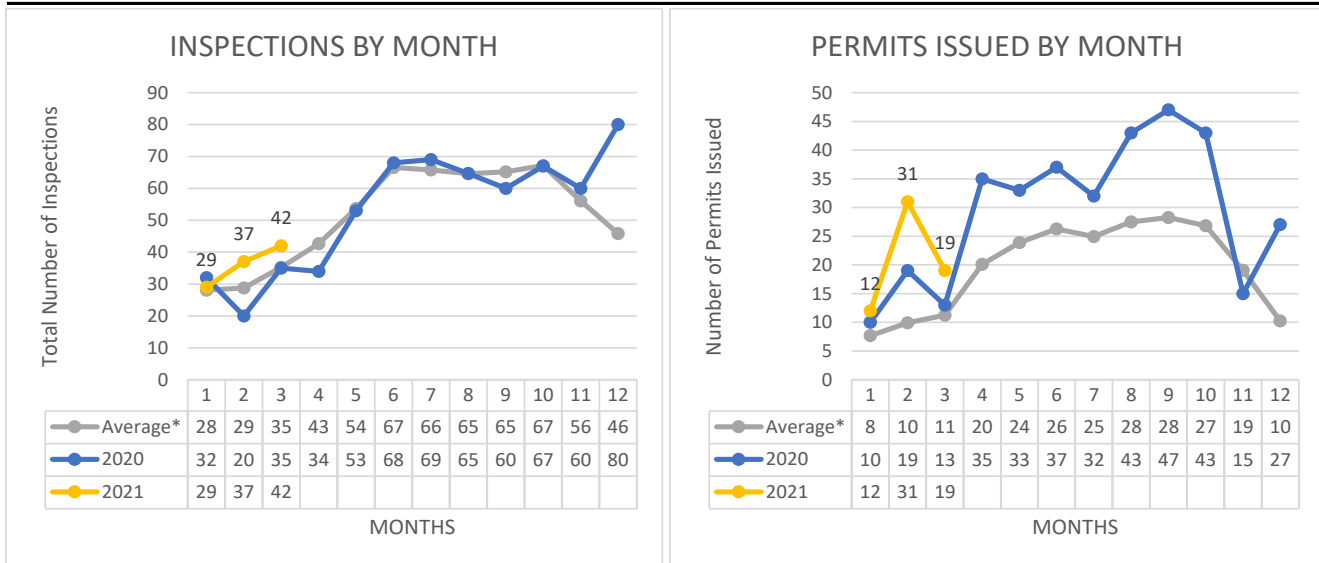
**TOWN OF BEECH MOUNTAIN**  
**Monthly Report**  
**Department of Building Inspections**  
**March-2021**

**1. Number of Inspections**

	This Month	Last Month	Same Month Last Year	This Fiscal Year to Date	Last Fiscal Year to Date	Calendar Year to Date
Building	16	16	16	240	195	43
Electrical	9	6	4	98	64	22
Plumbing	8	9	10	78	46	23
Htg/Air & Misc.	9	6	5	93	72	20

**2. Permits Issued**

No. Issued	19	31	13	269	197	62
Value	\$ 996,799	\$ 1,013,421	\$ 166,309	\$ 7,942,028	\$ 4,700,575	\$ 2,074,097
Permit Fees	\$ 9,727.00	\$ 14,034.20	\$ 8,915.40	\$ 105,781.20	\$ 62,578.76	\$ 25,096.20



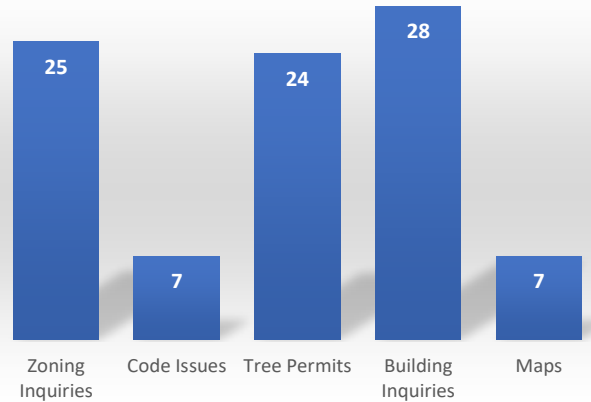
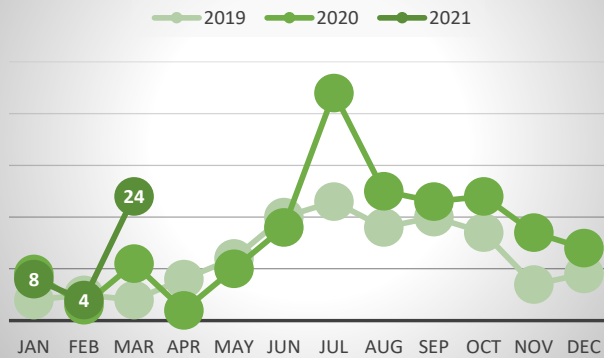
\*NOTE: Average Inspections and Permits are calculated based on a running average since April 2009

**3. Nature of Building Permits**

# of Permits	Type	Address	Total Fees	Valuation	New Bldgs FY to Date	New Bldgs Last FY
1	New Single Family		\$ 6,456.00	\$ 274,200	10	5
	New Multi-Family				0	0
	New Commercial				0	0
18	Other	Various	\$ 3,271.00	\$ 722,599		
19			\$ 9,727.00	\$ 996,799		

**TOWN OF BEECH MOUNTAIN**  
**PLANNING AND ZONING MONTHLY REPORT**  
 March-2021

**Tree Permits**



**Summary and Highlights**

**Building:**

Building permit issuance remains well above 10-year average  
 Inspections remain considerably high due to high number of active permits

**Zoning:**

Zoning inquiries have increased as home construction/remodelling and purchasing boom  
 Comprehensive overhaul of zoning ordinances underway to reflect changes in general statutes  
 Planning Board received first drafts of ordinance changes in February

**Trees:**

Tree permits were well above average for March

**GIS/Mapping:**

Several maps prepared for various departments  
 Additional maps underway for active projects

**Planning Board:**

Planning Board resumed meetings online in February  
 Planning Board established a set of goals and priorities for the upcoming year

**Census:**

Boundary and Annexation Survey (BAS) reported to Census  
 Report of Building or Zoning Permits C-404 submitted to Census