

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – October 9, 2012

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 3:04 p.m., Tuesday October 9, 2012 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, and Rick Miller. Council Members Cindy Keller and Alan Holcombe were not present. Council Member Alan Holcombe arrived at the meeting at 3:18 p.m. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Parks and Recreation Director Daniel Scagnelli, Tourism Development Authority Assistant John Troxler, Public Utilities Director Robert Heaton, Public Works Director Riley Hatch and Tourism Development Authority Coordinator Amy Morrison.

II. Invocation – John Troxler presented the invocation.

III. Pledge of Allegiance – All present joined in the Pledge of Allegiance to the flag.

IV. Adoption of Agenda – Mayor Owen stated that the proposed agenda would be amended to remove § VIII. New Business a. ‘*United States Department of Agriculture Loan Update.*’ Mayor Owen stated that the agenda would stand as amended.

V. Approval of the Minutes

a. September 11, 2012 Regular Meeting – Councilman Miller motioned to approve the September 11, 2012 Regular Meeting Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

b. September 11, 2012 Closed Session – Vice Mayor Piquet motioned to approve the September 11, 2012 Closed Session Minutes. Councilman Miller seconded the motion and the vote passed unanimously.

c. September 26, 2012 Special Meeting – Vice Mayor Piquet motioned to approve the September 26, 2012 Special Meeting Minutes. Councilman Miller seconded the motion and the vote passed unanimously.

VI. Public Hearing

a. Public Hearing for Benson Property Voluntary Annexation – Vice Mayor Piquet motioned to open the public hearing. Councilman Miller seconded the motion and the vote passed unanimously. Mayor Owen stated that this public hearing concerned a bank owned property which had requested to be annexed into the Town. Hearing no comments from the public Mayor Owen entertained a motion to close the public hearing. Councilman Miller motioned to close the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

b. Public Hearing for Regulating Storage Containers – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Town Planner James Scott stated that the Planning Board is recommending this ordinance as a means to regulate the presence of large storage containers such as pods or railroad style metal shipping containers. Mr. Scott stated that he has received lots of complaints about these types of storage containers on the mountain. Mr. Scott stated that this ordinance has been created to limit the amount of time that these types of containers would be permissible. Mr. Scott informed Council that this proposed ordinance is not intended to prohibit wheeled storage containers and that this would apply to the types of containers that are small enough in size that they would not require a commercial drivers license to transport. The maximum time frame that these containers would be permitted was 30 days. Mr. Scott stated that storage containers that were not visible from the roadway did not fall under this ordinance. Clark Kennedy of 103 Locust Ridge Road stated that he did rent one of these containers when he built a house on the mountain. Mr. Scott stated that as long as there is a valid building permit then this type of storage container is permissible. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Miller seconded the motion and the vote passed unanimously.

c. Public Hearing for Regulating Signs – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Town Planner James Scott stated that this proposed ordinance pertains to residential signs and semi-temporary signs; specifically covering addresses, off site signs for residential development and construction signs. Changes included addresses being required to be on the same side of the road as the property and that they also be posted during the construction process. Regarding off site residential signs Mr. Scott stated that it was the Planning Boards recommendation that these signs not be permitted. Mr. Scott stated that the semi-temporary signs had been remodeled to emulate the requirements for real estate signs. Mr. Scott stated that under the new provisions construction sites would be permitted an all inclusive 3 square foot sign on one post for advertising purposes. Additionally, the permit fee would be removed for these types if obtained pursuant to a building permit. Mayor Owen asked if there was any public comment. Hearing no public comment Councilman Miller motioned to close the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

d. Public Hearing for Parking Regulations – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

{Clerks Note: Council Member Alan Holcombe arrived at the meeting at 3:18 p.m.}

Town Planner James Scott stated that businesses and commercial entities are compelled by market forces to provide parking and that this is not necessarily an issue that the Town has to provide for. Therefore, the Planning Board is recommending to Council that the minimum parking requirement be stricken from the Towns Ordinance. Lee O'Neil of 220 Birchwood Lane stated that this allows a business to build over its entire property without taking into consideration parking. Mr. O'Neil felt that retaining the ordinance the way it currently was would help protect other businesses coming into the community. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Miller seconded the motion and the vote passed unanimously.

VII. Public Comment

Bill Kennedy of 112 Skiway Circle stated that the Planning Board has been discussing High Density Rental regulations. Mr. Kennedy stated that Beech Mountain is a resort community and that the Town needs to consider the large rental individuals and that there is a need for this type of rental.

Clark Kennedy of 103 Locust Ridge Road stated that Beech Mountain is a wonderful place. Mr. Kennedy stated that if rates continue to increase then the Town could be looking at pushing people away. Mr. Kennedy stated that limiting large group rentals, which is being defined by the Planning Board as 13 or more people, is detrimental. Mr. Kennedy asked if revamping other ordinances could not address some of the issues.

Fred Pfohl of 240 Sawmill Branch road stated that this past weekend had turned out great with the coming together of the community for the Autumn at Oz festival. Mr. Pfohl stated that the Town is capable of pulling together and doing things right and he appreciated being a part of the Town.

Author Jacowitz of 106 Hawthorne Road stated that he came to the meeting solely to hear about the first item on the agenda that it had been stricken from the agenda. Mayor Owen stated that this item was to be addressed under the second item of the agenda.

David Kennedy stated that he runs rental companies all over the high country and that these proposed High Density Regulations are not going to benefit the community. Mr. Kennedy stated that it was his understanding that the Planning Board was considering regulations that would dictate the size of rooms and be retroactive to homes built back to 1967. Mr. Kennedy stated that the Beech Mountain Resort has been doing a great job and the Town as well of making this a great resort community and felt this type of regulation would be detrimental.

Town Planner James Scott stated that this discussion on High Density Regulation is not on the agenda and is currently being worked on by the Planning Board. Mr. Scott stated that Beech Mountain is a rental and resort community as well as a residential community. What the Planning Board is trying to do is figure out how each of these entities can work together harmoniously. Mr. Scott stated that the Planning Board is not trying to prevent tourism in the community.

Mayor Owen encouraged the public to discuss their issues further with Council Members, the Planning Board and Town Planner James Scott. Mayor Owen stated that there is a process that is occurring and that everyone is able to participate. Mayor Owen welcomed everyone to continue to voice their concerns and ideas.

VIII. New Business

a. Local Government Commission Update – Ad Hoc Water Committee member Urs Gsteiger stated that his presentation would provide an update on a couple of meetings that have been held in September. Mr. Gsteiger stated that a long discussion had taken place with individuals with the North Carolina School of Government. Mr. Gsteiger stated that this

discussion tied in nicely with the meeting that took place amongst the Council, staff, Ad Hoc Water Committee and the North Carolina Local Government Commission on September 20, 2012. Mr. Gsteiger stated that the take away from this meeting was that the North Carolina Local Government Commission fairly specific in their approach on how they view things. Mr. Gsteiger stated that an overview was provided to the North Carolina Local Government Commission of the issues that the Town faces and how the Town is moving to address those issues. Mr. Gsteiger stated that he believed that the North Carolina Local Government Commission agrees and understands that the Town does have certain issues and that the Town is moving forward in a correct manner to deal with these issues. The North Carolina Local Government Commission agrees with our analysis that we have looked at the possible sources of funding. The one source that the North Carolina School of Government and the North Carolina Local Government Commission discussed was using the State Revolving Fund. This has been looked at by the Town but we had been informed that it varies from year to year and is not something that the Town should really rely on. They have received some significant sources of funds and have money right now. The Town was encouraged by both of these entities to look at this as a possible source of funding. Right now the State Revolving Funds interest rate is currently at 2.01% interest rate but only funds for 20 years. Because this would be a water and sewer fund project the Town would not have to fund on a flat principal basis but could do it on a standard amortization which results in a lower cost. The North Carolina Local Government Commission agrees that the United States Department of Agriculture would be the second source of funding and that the bond market would be the Town's third option for funding. Mr. Gsteiger stated that the State Revolving Fund has a submission deadline of September 30th in the year. But for the next year or so they are going to continue to accept applications on a rolling basis. What this means is that if the Town submits an application during the course of the year with a designed project then they would consider funding this project. The Town is moving forward with the process of hiring an engineer. The Town has indicated that the water plant would be the first project. A time line has not been finalized yet but will be completed over the course of the next couple of months. Mr. Gsteiger believes that the recommendation will be that these projects be separated with the Town moving forward with the water plant. Separating these two projects is a good idea because of the time lag it will take to complete the other two projects. The North Carolina Local Government Commission has determined that the majority of this funding will need to come from the Water and Sewer Fund and not the General Fund. Mr. Gsteiger stated that it is being determined what the Town will need to be able to show the North Carolina Local Government Commission in the Town's Water and Sewer Fund. The North Carolina Local Government Commission will analyze our repayment schedule not on a budgetary basis but on a cash flow basis. They want to see that the Water and Sewer Fund can carry the proposed debt load. The North Carolina Local Government Commission says that they are not impressed with the argument of increasing taxes for tax write off purposes and that they want to see this money coming from the Water and Sewer Fund. Mr. Gsteiger stated that in conclusion the North Carolina Local Government Commission sees that the Town has identified the need. Once the Town identifies the source of funding that will be used the next step in the process is that this will go through the Advisory Board for the North Carolina Local Government Commission and then go on to the North Carolina Local Government Commission for approval. The North Carolina Local Government Commission is sympathetic to the issues that the Town is confronting. The North Carolina Local Government Commission sees that the Town has taken steps already by raising the water rates to where they currently are. Now it is up to the Town to present a timeline which the

Ad Hoc Water Committee hopes to present Council with at their next meeting. Mayor Owen stated that while he was at the meeting held in September he had a discussion with the North Carolina Local Government Commission regarding paying for infrastructure out of the General Fund. The North Carolina Local Government Commission is not budging on this type of financing proposal. Mayor Owen stated that he pleaded the Town's high rates and the North Carolina Local Government Commission stated that when the Town gets to \$100 a month for their rates to come back and see them. Mayor Owen stated that the North Carolina Local Government Commission is not sympathetic to the Town's high utility rates because they do not feel that the rates are high. Mayor Owen thanked Mr. Gsteiger for his time.

b. Department Review of Summer Projects – Manager Feierabend stated that Council has a copy of the power point that staff has put together and that this information will be made available on the Town's website. Manager Feierabend provided a brief overview of some of staffs' achievements. Manager Feierabend stated that he was most proud of the collaborative work projects that were completed such as the sign at the bottom of the mountain, the Gnarria Festival, the Grassy Gap Lift Station, preliminary work on the potential Watauga River Water Intake Project, Lake Coffee Fishing Pier, new pedestrian paths, Fireman's Park, Bark Park as well as the Perry Park improvements and picnic shelter. Mayor Owen thanked staff for their hard work.

c. Request Public Hearing for Driveway Culvert Standards – Manager Feierabend stated that this proposed amendment would allow for a new product that is available for culverts to be used in the Town. This new product is slick inside versus rigid. Town Engineer Marion Rothrock has recommended that the Town use this product. Vice Mayor Piquet motioned to schedule the public hearing for Council's upcoming meeting. Councilman Holcombe seconded the motion and the vote passed unanimously.

d. Temporary Deputy Tax Administrator – Mayor Owen stated that Tax Administrator Jessica Heaton will be on maternity leave. Manager Feierabend stated that Kimberly Allen has been training part time with Mrs. Heaton. Councilman Miller motioned to approve Kimberly Allen as the Deputy Tax Collector. Councilman Holcombe seconded the motion and the motion passed unanimously. Town Clerk Jennifer Broderick was directed to swear Kimberly Allen into the position of Deputy Tax Collector.

e. North Carolina Municipal Records Retention and Disposition Schedule – Mayor Owen stated that there has been an update to the North Carolina Municipal Records Retention Disposition Schedule as of this past September. Town Clerk Jennifer Broderick stated that one of the main differences between this policy and the previous policy is that the North Carolina Records Branch is asking that municipalities establish a local policy defining the end of administrative value. The North Carolina Records Branch has given the go ahead to municipalities to approve this new record retention policy prior to implementing a local policy. Staff is planning on presenting Council with more information at their upcoming meeting. Councilman Miller motioned to approve the North Carolina Municipal Records Retention and Disposition Schedule. Councilman Holcombe seconded and the motion passed unanimously.

f. FY 2012 Scattered Site Housing Program for Avery and Watauga County – Mayor Owen stated this is a program where the High Country Council of Government receives and

handles block grants for housing that has become dilapidated. Monies are allocated to allow homeowners to get their homes back into better condition. If Beech Mountain does not participate it does not mean that someone in the community could not apply for the money. Mayor Owen stated that he would be happy to represent Beech Mountain in Avery County. Councilman Miller motioned that Beech Mountain participate on both the Avery County and Watauga County board. Councilman Holcombe seconded the motion and the vote passed unanimously.

IX. Old Business

a. Vote on Benson Property Voluntary Annexation – Mayor Owen stated that the Town has been petitioned by the bank and that all of the documents are in order and certified by Town Clerk Jennifer Broderick. Vice Mayor Piquet motioned to approve. Councilman Holcombe seconded the motion and the vote passed unanimously. Councilman Miller motioned to schedule a public hearing for zoning of the property at Councils upcoming meeting. Councilman Holcombe seconded the motion and the vote passed unanimously. Manager Feierabend stated that all of the availability fees have been paid. Ordinance No. 2012-08 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

b. Vote on Ordinance Regulating Storage Containers – Mayor Owen asked if there was further questions or concerns. Vice Mayor Piquet questioned the size; stating that the size should not matter feeling that no matter the size it would be just as objectionable. Vice Mayor Piquet stated that he does not object to contractors but is concerned about building permits that continue to be renewed for years and years and years. Town Planner James Scott stated that he has had feedback both ways that some of these restrictions are going too far and some are not going far enough. Vice Mayor Piquet stated that he would still like to see the size removed. Mayor Owen stated that the idea is to fix a problem that the Town has without going to an extreme. Vice Mayor Piquet stated that he is not completely opposed to this ordinance. Attorney Eggers stated that the ordinance could be very broad if size was not specified. Councilman Miller stated that under this proposed ordinance someone could have an 18 wheeler for 30 days. Mr. Scott stated that this does not supersede regulations that are already in place for blocking right of ways. Mr. Scott stated that the situation for which staff has received complaints have been, for example, for the length of time such as 6 months or when the container is within eyesight of the roadway. Councilman Miller stated that as long as a contractor works on a project 1 time in 6 months their building permit can be renewed. Manager Feierabend stated that legitimate valid work needs to occur in order for the building permit to be renewed. Councilman Miller motioned to approve the ordinance. Councilman Holcombe seconded the motion and the vote passed unanimously. Ordinance No. 2012-07 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

c. Vote on Ordinance Regulating Signs – Vice Mayor Piquet stated that residential signs should be less restrictive and allow people to be more expressive. Vice Mayor Piquet stated that there are some very nice metal signs that can be made and does not wish to restrict those. Town Planner James Scott stated that he agreed with Vice Mayor Piquet stating that residential signs should not be as strict. Attorney Eggers stated that Council could adjust the wording in the proposed ordinance for Section 154.275(c) and pass it or table this proposed ordinance till next Council meeting. Mayor Owen asked Council if they would like to table this ordinance until their following meeting. Council concurred. Councilman Miller stated

that subs should be allowed to put signs up and that their signs should not have the same stringent requirements. Mr. Scott stated that a sub could pull a permit and put up a sign that met the sign requirements. Mr. Scott stated that currently there is a 16 square foot area that is permitted for signs. Councilman Miller stated that he felt 5 square feet was more reasonable. Vice Mayor Piquet stated that construction sites are usually a mess anyways so would it be that objectionable? Mr. Scott stated that currently realtors are held to a higher standard than contractors are with sign requirements. Councilman Holcombe stated that the purpose of a sign was which was to advertise one thing, not to be like a billboard and advertise multiple things. Councilman Holcombe stated that he did not support the ordinance as written to allow multiple advertisements taking place on the same sign.

d. Vote on Ordinance Parking Regulations – Vice Mayor Piquet motioned to approve the parking regulations ordinance. Councilman Holcombe seconded the motion. Mayor Owen opened the floor for discussion. Councilman Miller stated that there have been past businesses where this was not enforced. Councilman Miller stated that businesses should be required to have sufficient parking. Mayor Owen asked what ample parking was and how many businesses this would affect as the ordinance currently is. Town Planner James Scott stated that a study was performed and that through this study it was discovered that there are not as many businesses in violation as originally thought. Attorney Eggers stated that this ordinance before Council would remove Towns decision making for the minimum number of parking spaces required. Mayor Owen stated that he dislikes having an ordinance that is not being enforced as written and questioned whether the Town is going too far by having no zoning ordinance in place. Mayor Owen stated that he was not sure if this was the best thing for the community. Mayor Owen called the question and the motion carried with a vote of 3 to 1. Councilman Miller voted nay. Ordinance No. 2012-09 is attached as Exhibit C and incorporated by reference as if fully set out within these minutes.

X. Town Manager and Staff Reports

Clarifier Status of Repair – Manager Feierabend stated that specifications and plans are in hand and being reviewed by Town Engineer Marion Rothrock.

Lift Station Status of Project – Manager Feierabend stated that the Town has a signed contract as of about two weeks ago and that the company has 75 days to finish from the date of signing.

Spill at Grassy View Pump Station – Councilman Miller asked about the problems that the Town had with the spill at Grassy View Pump Station. Public Utilities Director Robert Heaton stated that the public notices were sent out the next day and that the State Inspector was on site the next day. Mr. Heaton stated that staff performed bacteria tests and that the results from these tests came back well within the permissible levels. Mayor Owen stated that these overflows are occurring because of storm water not sewage.

Request for Qualifications – Mayor Owen stated that the Town was in the process of receiving Requests for Qualifications for the Water Plant and the Watauga River Reclassification Intake Project.

Mayor Owen stated that Council would take a short break at 4:42 p.m.

XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property – Upon motion by Vice Mayor Piquet at 4:52 p.m., seconded by Councilman Miller the Council voted unanimously to go into closed session pursuant to NC GS 143-318.11(a)(3) for Attorney Client Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property. Councilman Miller motioned to exit closed session at 5:25 p.m., which was seconded by Vice Mayor Piquet. The motion passed unanimously.

XII. Other Business

Insert in Utility Bills – Councilman Miller stated that it was extremely important that the water bills include information on utility projects that the Town has both completed and had underway. Manager Feierabend stated that staff has taken care the insert for this months' utility billing and that the Ad Hoc Water Committee would be taking care of next months' insert.

Possible Location for Beech Mountain Historical Society – Councilman Miller stated that he had discussed with Fred Pfohl the possibility of the Beech Mountain Historical Society renting space in the empty building that is located next to Jim Brooks business. Councilman Miller stated that he did not know what the rent was but thought that maybe the Town could assist the Beech Mountain Historical Society. Vice Mayor Piquet stated that previously Mr. Pfohl had informed the Beech Mountain Historical Society that the rent would be \$300 for half of the building. Councilman Miller thought it was important for the Historical Society to have a space to be seen. Mayor Owen stated that the Tourism Development Authority should support the Beech Mountain Historical Society. Mayor Owen stated he would need to think further on this idea. Manager Feierabend stated that he had recently contacted LifeStore Bank President Bob Washburn about the possibility of the Beech Mountain Historical Society using a portion of the bank owned building located at 3363 Beech Mountain Parkway. Manager Feierabend stated that Mr. Washburn had seemed receptive to this ideas and that he would discuss it with others. Council directed Manager Feierabend to follow up with Mr. Washburn. Manager Feierabend stated that the discussion had revolved around the Beech Mountain Historical Society using the building for free.

XIII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 5:32 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously. The meeting was adjourned at 5:32 p.m.

Minutes approved by Town Council on November 13, 2012.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, Town Clerk

EXHIBIT A

Ordinance No. 2012-08

Voluntary Annexation Ordinance (Contiguous)

**An Ordinance to Extend the Corporate Limits of the
Town of Beech Mountain, North Carolina, Pursuant to
General Statutes 160A-31, as Amended (Contiguous)**

(2 pages)

Incorporated in

October 9, 2012 Minutes

**Ordinance NO. 2012-08
TOWN OF BEECH MOUNTAIN, NC**

**VOLUNTARY ANNEXATION ORDINANCE (CONTIGUOUS)
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN
OF BEECH MOUNTAIN, NORTH CAROLINA, PURUSANT TO GENERAL
STATUTES 160A-31, AS AMENDED (CONTIGUOUS)**

WHEREAS, the Town Council of the Town of Beech Mountain has been petitioned under G.S. 160A-31, as amended, to annex the area herein described; and

WHEREAS, The Town Clerk has investigated the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held in the Council Chambers of the Beech Mountain Town Hall located at 403 Beech Mountain Parkway Beech Mountain, NC 28604 at 3:00 p.m. on the 9th day of October, 2012, after due notice by publication on September 26, 2012; and

WHEREAS, the Town Council does find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

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

SECTION I. By virtue of the authority granted by G.S. 160A-31, as amended, the following-described territory is hereby annexed and made a part of the Town of Beech Mountain as of October 9, 2012:

TRACT ONE:

Being that certain 2.00 acres tract of land designated as Tract 1 on that map of survey by Jerry L. Ball, RLS No. L-3108, dated February 5, 1997 and bearing map number 97010-2 and as recorded in Map Book 34, Page 68, of the Avery County Registry.

TRACT TWO:

Being that certain 1.23 acres tract of land designated as Tract 2 on that map of survey by Jerry L. Ball, RLS No. L-3108, dated February 5, 1997 and bearing map number 97010-2 and as recorded in Map Book 34, Page 68, of the Avery County Registry.

SECTION II. Upon and after the 9th of October, 2012, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Beech Mountain. Said territory shall be subject to municipal taxes according to G.S. 160A-31 (e), as amended.

SECTION III. That the newly annexed territory described hereinabove shall become a part the Town of Beech Mountain.

SECTION IV. The Mayor of the Town of Beech Mountain shall cause to be recorded in the Office of the Register of Deeds of Avery County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section I thereof, together with a duly certified copy of this Ordinance.

SECTION V. That all ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

SECTION VI. This Ordinance shall be in full force and effect from and after the 9th day of October, 2012.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 9th day of October, 2012.

This ordinance adopted this the 9th day of October, 2012.

Richard H. Owen, Mayor

Attest:

Jennifer Broderick, Clerk

EXHIBIT B

Ordinance No. 2012-07

An Ordinance to Regulate Storage Containers in Beech
Mountain

(2 pages)

Incorporated in
October 9, 2012 Minutes

Ordinance NO. 2012-07

TOWN OF BEECH MOUNTAIN, NC

AN ORDINANCE TO REGULATE STORAGE CONTAINERS IN BEECH MOUNTAIN

WHEREAS, the Town of Beech Mountain has enacted a zoning ordinance in order to protect the safety and welfare of its citizens and the character of its community; and;

WHEREAS, the zoning ordinance also serves to abate nuisances and to protect citizens' enjoyment of their property; and;

WHEREAS, the long term usage of large storage containers in locations where they are visible to the public is aesthetically unpleasant and degrades the character of Beech Mountain's neighborhoods;

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

SECTION I. The Code of Ordinances, Chapter 154 (Zoning), Section 154.006 and Section 154.142 are hereby amended to read as follows:

§ 154.006 DEFINITIONS.

PORTABLE STORAGE CONTAINERS. For the purposes of this Chapter, Portable Storage Containers shall refer to any structure that is not permanently affixed to the ground and is intended to be used for the storage of furniture, equipment, or other items. This definition is intended to include commercially available containers such as "PODS," railroad-style metal shipping containers or tractor trailers.

§ 154.142 STORAGE RECEPTACLES

(C) Portable Storage Containers.

(1) Portable storage containers as defined in §154.006 having greater than 343 cubic feet capacity (i.e. 7' x 7' x 7') shall not remain on properties in the Town of Beech Mountain in the R1, R2, R2A, R3A, or CS1 districts in locations where they are visible from beyond the boundaries of the property upon which they are situated for periods of greater than thirty (30) days.

(1) Containers used in the construction process during the duration of a valid building permit shall be exempt from the above regulation, provided they comply with all other applicable regulations.

- (2) Wheeled storage containers such as vehicle trailers that would not require a commercial driver's license to operate under the standards of the North Carolina Division of Motor Vehicles shall be exempt from the above regulation.

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

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

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

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 9th day of October, 2012.

This ordinance adopted this the 9th day of October, 2012.

Richard H. Owen, Mayor

Attest:

Jennifer Broderick, Clerk

EXHIBIT C

Ordinance No. 2012-09

An Ordinance to Amend Parking Regulations in Beech
Mountain

(2 pages)

Incorporated in
October 9, 2012 Minutes

Ordinance NO. 2012-09

TOWN OF BEECH MOUNTAIN, NC

AN ORDINANCE TO AMEND PARKING REGULATIONS IN BEECH MOUNTAIN

WHEREAS, the Town of Beech Mountain has enacted a zoning ordinance in order to protect the safety and welfare of its citizens and the character of its community; and;

WHEREAS, the Town of Beech Mountain recognizes that businesses and commercial entities have an interest in providing ample parking for their establishments and that market forces will dictate that ample parking is provided; and;

WHEREAS, the Town of Beech Mountain recognizes that in many communities, mandatory parking requirements for commercial establishments have contributed to an auto-centric form of development that is often criticized for its lack of a sense of "place" and "character"; and;

WHEREAS, the Town of Beech Mountain recognizes that due to the seasonal nature of its business entities, it is difficult to definitively ascertain the amount of parking that is sufficient; and;

WHEREAS, the Town of Beech Mountain recognizes that many existing commercial entities within the town do not have adequate parking to comply with current requirements, yet parking is seldom a problem; and;

WHEREAS, the Town of Beech Mountain has a relatively small commercial district and a relatively small number of commercial establishments;

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

SECTION I. The Code of Ordinances, Chapter 154 (Zoning), Section 154.132 is hereby amended to read as follows:

§ 154.132 OFF-STREET PARKING. ¹

(2) Public and semi-public uses and Business/ Commercial uses.

Each business or establishment is responsible to provide ample parking to suit their needs within the confines of their property or property acquired for that purpose. The provisions and requirements of the Americans with Disabilities Act (ADA) regarding parking requirements shall be satisfied.

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

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

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

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 9th day of October, 2012.

This ordinance adopted this the 9th day of October, 2012.

Richard H. Owen, Mayor

Attest:

Jennifer Broderick, Clerk