

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, MAY 9, 2023, 5:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER**

PRESENT: Mayor Carol C. Pritchett
Mayor Pro Tem David DiOrio
Commissioner Scott Doster
Commissioner Jim Proctor
Commissioner Patrick Bryant

William Morgan, Jr., Town Attorney
William Hank Perkins, Jr., Town Manager
Michael Williams, Community Development Director
Stephen Ford, Finance Director
Michael Dydula, Project Manager
Andy Ogle, Public Services Administrative Support Specialist

ABSENT: N/A

I. CALL TO ORDER

Mayor Carol C. Pritchett called the meeting to order at 5:00 p.m. Commissioner Bryant led invocation and Council members led the pledge of allegiance.

II. APPROVE THE AGENDA

Commissioner Proctor requested to add Item L, "LaBella Task 6 Revision 2" to Section X, "New Business."

Commissioner Proctor made a motion to approve the agenda, as amended. Commissioner Doster seconded and the motion carried 4-0.

III. MAYOR'S COMMUNICATIONS

Mayor Pritchett thanked all individuals in attendance. Mayor Pritchett noted that the lake is up and that the next drawdown schedule will be determined in June. It was noted that the Town is in the budgeting process, which is slightly delayed because of property re-evaluations. Mayor Pritchett announced that the Town will hold the public hearing for the budget on June 28th at 5:00 p.m.

IV. TOWN MANAGER COMMUNICATIONS

Town Manager Hank Perkins summarized highlights from his Manager's Report for April (available in the meeting packet).

V. PUBLIC HEARING

A. ORDINANCE NO. 23-05-09 AMENDING THE TOWN OF LAKE LURE CODE OF ORDINANCES, CHAPTER 6 ("BUILDINGS AND BUILDING REGULATIONS"), ARTICLE III ("LAKE STRUCTURES")

Commissioner made a motion to open the public hearing. Commissioner DiOrio seconded and all voted in favor.

i. STAFF REPORT

Community Development Director Michael Williams explained that staff would like to encourage property owners to properly maintain lake structures and expressed the need to make it easier for property owners to do so. Director Williams expanded that as of current, there is a one-size-fits all permitting process for lake structures regardless of the magnitude of the project. It was noted that staff proposed amended language to the lake structures ordinances to allow for a differentiation between major projects and minor structural repairs. Director Williams added that the ordinance should make it easier for property owners to make necessary repairs to their lake structures. It was noted that the Zoning and Planning Board recommended the proposed language.

ii. PUBLIC HEARING

The public hearing was opened prior to the staff report. Mayor Pritchett invited the public to speak.

There were no comments from the public.

iii. COUNCIL DELIBERATION

Commissioner Proctor detailed the history of the lake structures ordinances. Commissioner Doster noted that a local builder brought issues in regard to lake structures ordinances to the attention of the Zoning and Planning Board, the Board reviewed staff's recommended language, and the ordinance contains final recommendations.

iv. CONSIDERATION OF ADOPTION OF ORDINANCE NO. 23-05-09 AN ORDINANCE AMENDING THE TOWN OF LAKE LURE CODE OF ORDINANCES, CHAPTER 6 ("BUILDINGS AND BUILDING REGULATIONS"), ARTICLE III ("LAKE STRUCTURES")

Commissioner Doster made a motion to close the public hearing. Commissioner Proctor seconded and all voted in favor.

Commissioner Bryant made a motion to adopt Ordinance No. 23-05-09 Amending the Town of Lake Lure Code Of Ordinances, Chapter 6 ("Buildings and Building Regulations"), Article Iii ("Lake Structures"). Commissioner Doster seconded and all voted in favor.

Ordinance No. 23-05-09 was adopted as follow:

ORDINANCE NUMBER 23-05-09

AN ORDINANCE AMENDING THE TOWN OF LAKE LURE CODE OF ORDINANCES, CHAPTER 6 ("BUILDINGS AND BUILDING REGULATIONS"), ARTICLE III ("LAKE STRUCTURES")

WHEREAS, The Town of Lake Lure establishes regulations governing all structures to be erected and maintained within the boundaries of the lake for the purpose of enhancing the health, safety, and welfare of the general public and to preserve the property of the town and the properties of upland landowners; and

WHEREAS, The Town of Lake Lure Code of Ordinances Chapter 6, Article III, establishes the regulation of lake structures; and

WHEREAS, The regulation of lake structures is prescribed and enforced in a uniform manner regardless of severity or type of construction or maintenance; and

WHEREAS, The Town of Lake Lure finds that the severity and type of construction and maintenance of lake structures are diverse, and it is sensible and appropriate to regulate the construction and maintenance of lake structures in varied fashion.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF TOWN COUNCIL VOTING IN THE AFFIRMATIVE.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~]

SECTION ONE. The following definition is hereby added to Chapter 6 (“Buildings and Building Regulations”), Article III (“Lake Structures”), Section 6-48 (“Definitions”):

Repairs, Minor Structural. Structural repair or replace in like kind actions to an existing lake structure costing no more than \$4,999.

SECTION TWO. Chapter 6 (“Buildings and Building Regulations”), Article III (“Lake Structures”), Section 6-52 (“Repair, Reconstruct, and Removal of Structures”), is hereby amended as follows:

Sec. 6-52. Repair, reconstruction, and removal of structures.

- (a) Internal, external, and cosmetic repairs do not require a lake structure permit, unless a county building permit is required. It is the property owner's responsibility to determine if a county building permit is required for the work being performed.
- (b) Minor structural repairs and replacements may be excluded from the requirement that plans be professionally sealed if presented plans are approved by the Lake Structure Administrator as sufficient to justify the applicant’s assurance of structural integrity of the project.
- ~~(b)~~ (c) Structural repairs and reconstruction of lake structures require a lake structure permit as described in section 6-49 before any work is performed. A survey shall be required, and must accompany the application for all structural repair and reconstruction endeavors that affect the physical location, outer dimensions (height, length, width), projection into the lake, or setbacks of a lake structure. A county building permit may also be required depending on the nature and extent of the work.
- ~~(c)~~ (d) Reconstruction of lake structures shall be permitted as described in section 6-49; shall begin within 18 months from the date of condemnation, collapse, or destruction; and shall meet the following requirements:
 - (1) The original structure may be replaced with a like structure, not necessarily of the same dimensions, (i.e., a dock with a dock, a boathouse with a boathouse) and shall not include living quarters over the water.
 - (2) Height and projection into the lake meets current standards as described in section 6-51.
 - (3) The number of permanent moorings meets current standards as described in section 6-51.
 - (4) The distance from the lake structure to the projected upland lot property lines, if less than 15 feet, shall be no closer to the projected lot line than the structure being replaced and shall not encroach on or over projected property lines.
- ~~(d)~~ (e) Cleanup and removal of condemned, collapsed, or involuntarily destroyed structures shall begin within 90 days of the date of condemnation, collapse, or destruction. Hazardous items such as fuel, lubricants, paint, chemicals, unused boat batteries, etc., shall be removed immediately to protect water quality.

- (e) (f) These standards shall not apply to any lake structures owned by the town, providing that designs for such structures have been reviewed and approved by the lake advisory board and the town council.

SECTION THREE. All provisions of any Town Ordinance inconsistent with the language herein adopted are hereby repealed.

SECTION FOUR. This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately from after the date of its final passage and adoption.

READ, APPROVED, AND ADOPTED this 9th day of May, 2023.

V. PUBLIC HEARING

B. ORDINANCE NO. 23-05-09A AMENDING THE TOWN OF LAKE LURE CODE OF ORDINANCES SECTION 6-49 (A) (12) AND SECTION 36-140 (B) (5), AND ADDING SECTION 22-23 (A) (1) TO ESTABLISH DOUBLED PERMIT FEES FOR PROJECTS COMMENCED PRIOR TO OBTAINING PERMIT(S)

Commissioner Bryant made a motion to open the public hearing. Commissioner Doster seconded and all voted in favor.

i. STAFF REPORT

Director Williams explained issues regarding individuals not obtaining permits for projects. Director Williams noted that staff has been crafting solution to ensure that people permits are obtained prior to starting a project, and that this ordinance is a tool that will be used mitigate the issues. It was explained that the ordinance will establish a double permit fee for projects started prior to obtaining a permit. Director Williams noted that the double fee will be enforced for zoning, lake structure, and land disturbance permits.

ii. PUBLIC HEARING

Mayor Pritchett invited the public to speak.

Debbie Warner, 138 Yacht Island Drive, asked if there had been a meeting with local contractors yet. Director Williams answered that the meeting had not yet occurred, but added he has been speaking with contractors.

Steve Milito, 1412 Proctor Road, asked if there is going to be a time limitation as to how far back the Town can enforce this and when this goes into effect. Town Attorney William Morgan answered that he does not think the Town could enforce the double fee for projects completed prior to the ordinance being adopted and noted that the ordinance will be in effect upon adoption.

Commissioner Doster recalled past Zoning and Planning Board discussions and noted that the contractor meeting is still in planning and set to take place in the future. Commissioner Doster noted the importance of increased communications, especially in relation to new ordinances. Laura Doster noted that the Chamber of Hickory Nut Gorge could help facilitate the contractor meetings.

iii. COUNCIL DELIBERATION

There was no further deliberation from Council.

iv. CONSIDERATION OF ADOPTION OF ORDINANCE NO. 23-05-09A

Commissioner DiOrio made a motion to adopt Ordinance No. 23-05-09A amending the Town of Lake Lure Code of Ordinances Section 6-49 (A) (12) and Section 36-140 (B) (5), and Adding Section 22-23 (A) (1) to Establish Doubled Permit Fees for Projects Commenced Prior to Obtaining Permit(s). Commissioner Bryant seconded and all voted in favor.

Ordinance No. 23-05-09 was adopted as follow:

ORDINANCE NUMBER 23-05-09A

AN ORDINANCE AMENDING THE TOWN OF LAKE LURE CODE OF ORDINANCES SECTION 6-49 (A) (12) AND SECTION 36-140 (B) (5), AND ADDING SECTION 22-23 (A) (1) AND SECTION 36-297 TO ESTABLISH DOUBLED PERMIT FEES FOR PROJECTS COMMENCED PRIOR TO OBTAINING PERMIT(S)

WHEREAS, The Town of Lake Lure is authorized to establish certain fees; and

WHEREAS, The Town of Lake Lure collects Community Development permit fees for lake structures, zoning, land disturbances, and more; and

WHEREAS, The Town of Lake Lure Community Development staff has expressed concern regarding consistent occurrences of projects commenced prior to obtaining necessary permitting; and

WHEREAS, The Town of Lake Lure finds it necessary to implement techniques to mitigate the commencement of projects prior to obtaining necessary permitting; and

WHEREAS, The Town of Lake Lure supports the implementation of doubled permit fees for lake structure, zoning, and land disturbance projects commenced prior to obtaining permit(s).

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF TOWN COUNCIL VOTING IN THE AFFIRMATIVE.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE STRUCK THROUGH]

SECTION ONE. Chapter 6 (“Buildings and Building Regulations”), Article III (“Lake Structures”), Section 6-49 (a) (12), is hereby amended as follows:

- (12) The application fee, the amount of which shall be established by the town council. Failure to obtain a required permit prior to commencing work shall subject applicant to double application fee.

SECTION TWO. Chapter 36 (“Zoning”), Article V (“Administration, Enforcement, Appeals”), Section 36-140 (b), is hereby amended as follows:

- (b) All applications for certificates of zoning compliance shall be accompanied by the following:
 - (1) Detailed site plans, in duplicate and drawn to scale, showing the following:
 - a. Actual dimensions and general topography of the lot to be built upon;
 - b. Accurate dimensions, uses and locations on the lot of the building proposed to be erected or altered;
 - c. The significant trees to be protected or removed; and
 - d. A steep slope plan in accordance with section 36-262 where such slopes occur.
 - (2) If connection is to be made to the town's water or sewer systems, proof of approval for taps from the town, or a completed "waiver of liability" on a form obtainable from the town.
 - (3) If individual septic tanks and/or wells are to be used, proof of approval from the county health department.
 - (4) Such other information as may be necessary to provide for the enforcement of the provisions of this chapter.
 - (5) The application package shall include the review fee, the amount of which shall be established by the town council. Failure to obtain a required permit prior to commencing work shall subject applicant to double application review fee.

SECTION THREE. Chapter 22 (“Planning and Development”), Article II (“Soil Erosion and Sediment Control”), Section 22-23 (a) (1), is hereby amended as follows:

(a) *Permit required.*

- (1) A land disturbance permit approved by the erosion control officer shall be required for all non-exempt land disturbing activities, except that no permit shall be required for land disturbing activity:
 - a. Where land disturbing activities are essential to protect human life and only for the duration of an emergency;

- b. Where land disturbing activities are within 35 feet of a lake or natural watercourse and do not exceed 100 square feet in surface area; or
- c. Where land disturbing activities are not within 35 feet of a lake or natural watercourse and do not exceed 2,000 square feet in surface area; or
- d. The application package shall include the review fee, the amount of which shall be established by the town council. Failure to obtain a required permit and plan approval prior to commencing work shall result in double the normal application review fee.

SECTION FOUR. Chapter 36 (“Zoning”), Article X (“Exemptions”), is hereby amended as follows:

Sec. 36-297. Exceptions to 36-140 (b) (5).

The doubled permit fee penalty for failing to obtain a required permit prior to commencing work shall not apply to either a Mobile Food Vendor Operator or a Vacation Rental Operator who begin operating within the Town without the required Town permit. However, the violation may subject that violator to civil fines as provided in the Town fee schedule.

~~**Secs. 36-297 – 36-323. Reserved.**~~

~~**Secs. 36-298 – 36.323. Reserved.**~~

SECTION FIVE. The Town of Lake Lure Town Council deems Ordinance No. 23-05-09A to be consistent with the Lake Lure comprehensive plan because it enhances the enforcement of land use and zoning regulations.

SECTION SIX. The Town of Lake Lure Town Council deems Ordinance No. 23-05-09A to be reasonable and in the public interest because it provides additional enforcement of the Code of Ordinances put in place to meet the needs of the community.

SECTION SEVEN. All provisions of any Town Ordinance inconsistent with the language herein adopted are hereby repealed.

SECTION EIGHT. This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately from after the date of its final passage and adoption.

READ, APPROVED, AND ADOPTED this 9th day of May, 2023.

VI. COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Scott Doster reported the activities of the Zoning and Planning Board and the ABC Board.

Commissioner David DiOrio reported the activities of the Lake Advisory Board and the Board of Adjustment / Lake Structure Appeals Board.

Mayor Pritchett noted that the Steering Committee did not meet and reported the activities of the Parks and Recreation Board.

VII. PUBLIC COMMENT

Mayor Carol C. Pritchett invited the audience to speak.

Laura Doster, 274 Thomas A Edison Road, asked if Council had any information in regard to the state bill proposing to hold all elections during even years. It was noted that the bill passed through the Senate and is in review by the House.

There were no further comments from the public.

VIII. CONSENT AGENDA

Mayor Carol C. Pritchett explained the consent agenda.

Commissioner DiOrio made a motion to approve the Consent Agenda, as presented. Commissioner Doster seconded. Therefore, the Consent Agenda incorporating the following items was unanimously approved and adopted:

- A. Approval of the April 11, 2023 Regular Town Council Meeting Minutes, the April 18, 2023 Special Round Table Meeting Minutes, the April 20, 2023 Special Round Table Meeting Minutes, and the April 26, 2023 Regular Town Council Work Session Meeting Minutes
- B. Resolution No. 23-05-09 Amending the Rules of Procedure for the Lake Lure Town Council
- C. Approval of Rumbling Bald Request to Rearrange the Placement of the Cluster Mooring Located on the Northwest end of the Lake

RESOLUTION NO. 23-05-09

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE AMENDING THE RULES FOR PROCEDURE FOR THE LAKE LURE TOWN COUNCIL

WHEREAS, the Town of Lake Lure Town Council adopted *Rules of Procedure for the Lake Lure Town Council* on April 10, 2001; and

WHEREAS, various aspects of the *Rules of Procedure for the Lake Lure Town Council* require amendments or updates;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town of Lake Lure Town Council hereby amends the *Rules of Procedure for the Lake Lure Town Council*, as follows:

(ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~)

Rules of Procedure for the Lake Lure Town Council

Rule 1. Regular Meetings

The council shall hold a regular meeting on second Tuesday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day unless otherwise designated by the council. The meeting shall be held at The Lake Lure Municipal Center and shall begin at ~~7:00~~ 5:00 P.M. A copy of the council's current meeting schedule shall be filed with the city clerk.

Rule 2. Special, Emergency, and Recessed [or Adjourned] Meetings

(a) Special Meetings. The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) delivered to the mayor and each council member or left at his or her usual dwelling place; (2) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; ~~and~~ (3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk; and, (4) posted on the Town's website. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. Even in such a case, the council shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

A special meeting may also be called or scheduled by vote of the council in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (2) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Such notice shall also be mailed or delivered at least forty-eight hours before the meeting to each council member not present at the meeting at which the special meeting was called or scheduled, and to the mayor if he or she was not present at that meeting. Only those items of business specified in the notice may be discussed or transacted at a special

meeting called in this manner, unless all members are present or those not present have signed a written waiver of notice, and the council determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(b) Emergency Meetings. Emergency meetings of the city council may be called only because of generally unexpected circumstances that require immediate consideration by the council. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the council.

(1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.

(2) An emergency meeting may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the council complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's, or station's telephone number, with the city clerk. This notice shall be given either by telephone or by the same method used to notify the mayor and the council members and shall be given at the expense of the party notified.

(c) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed session of a properly called regular, special, or emergency meeting.

Rule 3. Organizational Meeting

On the date and at the time of the first regular meeting in December following a general election in which council members are elected, or at an earlier date, if any, set by the incumbent council, the newly elected members shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the council shall elect a mayor pro tempore. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

Rule 4. Agenda

(a) Proposed Agenda. The city clerk shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least three

working days before the meeting. Any council member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each council member shall receive a copy of the proposed agenda and the agenda package, and they shall be available for public inspection and distribution or copying when they are distributed to the council members.

(b) **Adoption of the Agenda.** As its ~~third~~ first order of business at each meeting, the council shall, as specified in Rule 6, discuss, and revise the proposed agenda and adopt an agenda for the meeting. If items are proposed to be added to the agenda of a meeting, the council may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all council members.

The council may by majority vote add items to or subtract items from the proposed agenda, except that (a) the council may not subtract items from the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless those calling the meeting consent to the deletion, (b) the council may not add items to the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless all members are present, or those who are absent sign a written waiver of notice, and (c) only business connected with the emergency may be considered at an emergency meeting. The council may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

The council may designate certain agenda items “for discussion and possible action.” Such designation means that the council intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) **Consent Agenda.** The council may designate a part of the agenda as the “consent agenda.” Items shall be placed on the consent agenda by those preparing the proposed agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

(d) **Open Meetings Requirements.** The council shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number, or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the council to understand what is being deliberated, voted, or acted on. The council may, however, deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on are available for public inspection at the meeting.

Rule 5. Public Address to the Council

~~Any individual or group who wishes to address the council shall make a request to be on the agenda to the city clerk. However, the council shall determine at the meeting whether it will~~

~~hear the individual or group.~~

The council shall provide at least one period for public comment per month at a regular meeting of the council. The council may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker (currently set as three (3) minutes, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The council is not required to provide a public comment period under this section if no regular meeting is held during the month. Public Comment is generally reserved for items that are not on the Council's agenda. No public comments are allowed on any item on which a public hearing has been set or held. Comments may be submitted in writing to the Town Clerk, which will become part of the minutes.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. Once the meeting is called to order, and following the invocation (if offered) and the Pledge of Allegiance, the order of business for each regular meeting shall be as follows:

1. Invocation Agenda Adoption
2. ~~Informal discussion and public comment~~ Mayor's Communications
3. ~~Discussion and revision of the proposed agenda, including consent agenda; adoption of agenda~~ Town Manager's Communications
4. Public hearings
5. Approval of Minutes Council Liaison Reports and Comments
6. ~~Committee reports~~ Presentations
7. ~~Unfinished Business~~ Public Comment
8. ~~New Business~~ Consent Agenda
9. ~~Administrative Reports~~ Unfinished business
10. ~~Council Reports~~ New business
11. Closed Session(s)
12. Adjournment

By general consent of the council, items may be considered out of order.

Rule 7. Office of Mayor

The mayor shall preside at all meetings of the council but shall have the right to vote only when there is a tie. In order to address the council, a member must be recognized by the mayor.

The mayor or other presiding officer shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this

- ground;
- (c) To entertain and answer questions of parliamentary law or procedure;
 - (d) To call a brief recess at any time;
 - (e) To adjourn in an emergency.

A decision by the presiding officer under (a), (b), or (c) may be appealed to the council upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b), or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

A mayor or other presiding officer may adjourn without the board's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time.

Rule 8. Office of Mayor Pro Tempore

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the council's pleasure. A council member who serves as mayor pro tempore shall be entitled to vote on all matters and shall be considered a council member for all purposes, including the determination of whether a quorum is present. In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. If the mayor should become physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare that the mayor is incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When a mayor declares that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and mayor pro tempore are absent from a meeting, the council may elect from among its members a temporary chairman to preside at the meeting.

Rule 9. When the Presiding Officer Is in Active Debate

If the mayor or other presiding officer becomes actively engaged in debate on a particular proposal, he or she may designate another council member to preside over the debate. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

Rule 10. Action by the Council

The council shall proceed by motion, except as otherwise provided for in Rule 4 and in Rule 31. Any member may make a motion.

Rule 11. Second Required

A motion shall require a second.

Rule 12. One Motion at a Time

A member may make only one motion at a time.

Rule 13. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 14. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 15. Voting by Written Ballot

The council may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the council shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the city clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 16. Debate

The mayor shall state the motion and then open the floor to debate on it. The mayor shall preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 17. Ratification of Actions

To the extent permitted by law, the council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 18. Procedural Motions

(a) **Certain Motions Allowed.** In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the council, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of council consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess [or adjourn] to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

Motion 5. To Suspend the Rules. The council may not suspend provisions of the rules that state requirements imposed by law on the council. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the council, excluding the mayor, unless he or she may vote in all cases, and vacant seats.

Motion 6. To Go into Closed Session. The council may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the council expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration. The council may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 18(b), Motion 14], or else move to suspend the rules [Rule 18(b), Motion 5].

Motion 10. Motion for the Previous Question. The motion is not in order until there have been at least 20 minutes of debate, and every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules [Rule 18(b), Motion 5].

Motion 12. To Refer a Motion to a Committee. The council may vote to refer a substantive motion to a committee for its study and recommendations. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire council, whether or not the committee has reported the matter to the council.

Motion 13. To Amend. (a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) Any amendment to a proposed ordinance shall be reduced to writing before the vote on the amendment.

Motion 14. To Revive Consideration. The board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 18(b). The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

Motion 15. To Reconsider. The council may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the "no's" prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess [or adjournment] to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

Motion 16. To Rescind or Repeal. The council may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership of the council excluding the mayor and vacant seats. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the council, whichever occurs first.

Rule 19. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.

Rule 20. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever occurs first.

Rule 21. Duty to Vote

Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 22. Introduction of Ordinances

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the council.

Rule 23. Adoption of Ordinances and Approval of Contracts

(a) **Generally.** An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance or action that has the effect of an ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of all the actual membership of the council, excluding vacant seats, and not including the mayor unless he or she has the right to vote on all questions before the council. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

~~(b) **Zoning Protest Petitions.** An affirmative vote equal to three-fourths of all the members of the city council shall be required for an ordinance making a change in a zoning regulation, restriction, or boundary to become effective, if a valid protest petition is received in accordance with the requirements set out in G.S. 160A-385(a) and G.S. 160A-386. This rule shall not apply in those cases except by G.S. 160A-385(a).~~

Rule 24. Adoption of the Budget Ordinance

Notwithstanding the provisions of any city charter, general law, or local act:

- (1) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the council by a simple majority of those present and voting, a quorum being present;
- (2) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council; and
- (3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (a) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (b) no business other than consideration of the budget is taken up. This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the council if it is otherwise prohibited by law from holding such a meeting or session.

Rule 25. This space is reserved for later use.

The board may adopt its own special rules of procedure, to be specified here.

Rule 26. Closed Sessions

The council may hold closed sessions as provided by law. The council shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on G.S. 143-318.11(a) (1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a) (3) (consultation with attorney; handling or settlement of claims, judicial actions, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The council shall terminate the closed session by a majority vote.

Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

Rule 27. Quorum

A majority of the actual membership of the council plus the mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall

be counted as present for purposes of determining whether or not a quorum is present.

Rule 28. Public Hearings

Public hearings required by law or deemed advisable by the council shall be organized by a special order (adopted by a majority vote) that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The rules may include, but are not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to council meetings shall also apply to public hearings at which a majority of the council is present; such a hearing is considered to be part of a regular or special meeting of the council. These requirements also apply to hearings conducted by appointed or elected committees of the council, if a majority of the committee is present. A public hearing for which any notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the council is present. The council may vote to delegate to city staff members, as appropriate, the authority to schedule, call, and give notice of public hearings required by law or the council. The council shall provide adequate guidelines to assist staff members in fulfilling this responsibility, and it shall not delegate the responsibility in cases where the council itself is required by law to call, schedule, or give notice of the hearing.

At the time appointed for the hearing, the mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall entertain or make a motion to end the hearing

Rule 29. Quorum at Public Hearings

A quorum of the council shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular council meeting without further advertisement.

Rule 30. Minutes

Full and accurate minutes of the council proceedings, including closed sessions, shall be kept. The board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and

general accounts shall ~~be open to~~ remain closed to inspection of the public, so long as public inspection would frustrate the purpose of the closed session. ~~except as otherwise provided in this rule.~~ The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the council, the “ayes” and “nos” upon any question shall be taken. Members’ and other persons’ comments may be included in the minutes if the council approves.

~~Minutes and general accounts of closed sessions may be sealed by action of the council. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.~~

Rule 31. Appointments

The council may consider and make appointments to other bodies, including its own committees, if any, only in open session. The council may not consider or fill a vacancy among its own membership except in open session.

The mayor shall not have a right to vote on appointments that come before the council unless there is a tie vote.

Rather than proceeding by motion, the council shall use the following procedure to make appointments to various other boards and offices: The town clerk shall report on applications received. The mayor shall then open the floor for nominations, whereupon the names of other possible appointees may be put forward by the council members. The names submitted shall be debated. When the debate ends, the mayor shall call the roll of the members, and each member shall cast his or her vote.

The nominee(s) receiving the highest number of votes shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his or her votes and cast them for different nominees.

The voting shall continue until one nominee receives a majority of the votes cast, whereupon he or she shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes in each balloting as there are slots to be filled, and votes from a majority of the members voting shall be required for appointment. During each balloting, a member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate.

Rule 32. Committees and Boards

(a) Establishment and Appointment. The council or the mayor, if the mayor is delegated that power by the council, may establish and appoint members for such temporary and standing city committees and boards as are needed to help carry on the work of city government. Any specific provisions of law relating to particular committees and boards shall be followed.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of the city

that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the city's professional staff.

Rule 33. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the city charter, general law, and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the council, excluding vacant seats, and not including the mayor unless he or she has the right to vote on all questions before the council.

Rule 34. Reference to *Robert's Rules of Order Newly Revised*

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the council shall refer to *Robert's Rules of Order Newly Revised*, to answer unresolved procedural questions.

The above Rules ~~for~~ of Procedure are based on *Suggested Rules of Procedure for a City Council*, 3rd edition, by Fleming Bell, II (Chapel Hill, N.C.: The Institute of Government, The University of North Carolina, 2000).

SECTION TWO. This Resolution shall become effective upon adoption.

READ APPROVED AND ADOPTED this 9th day of May, 2023

IX. UNFINISHED BUSINESS

There was no unfinished business to discuss.

X. NEW BUSINESS

A. REQUEST FOR TOWN COUNCIL APPROVAL TO RE-SAND THE EXISTING TOWN-OWNED BEACH LOCATED AT 2724 MEMORIAL HIGHWAY

Director Williams explained the recent history in regard to refilling sand on beaches within the Town. Director Williams noted that this request is the same as the past requests, but for the Town beach. Director Williams noted that there is currently sand on the beach, but a stop work order is in place and Parks and Recreation is requesting Council approval to spread the sand. Director Williams recommended approval.

Commissioner DiOrio recommended giving the list of approved existing beaches to the Zoning and Planning Board and solidifying the maintenances of those beaches in the ordinances. Commissioner DiOrio also recommended pursuing an ordinance defining existing beaches and maintenance. Council members agreed.

Commissioner Proctor thanked Director Williams for placing a stop work order to enforce the rules.

Commissioner DiOrio made a motion to approve the request for Town Council approval to re-sand the existing Town-owned beach located at 2724 Memorial Highway. Commissioner Bryant seconded and all voted in favor.

X. NEW BUSINESS

B. PROPOSED AMENDMENTS TO THE 2023 LAKE USE FEE SCHEDULE

Director Williams explained that the proposed amendment would add a category for minor structural repairs of lake structures, as adopted previously in the meeting.

Commissioner Doster noted that the agenda should have stated lake use fee schedule rather than land use fee schedule.

Commissioner DiOrio made a motion to approve the proposed amendments to the 2023 Lake Use Fee Schedule. Commissioner Doster seconded and all voted in favor.

X. NEW BUSINESS

C. PROPOSED AMENDMENTS TO THE FY 23-24 BUDGET CALENDAR

Manager Perkins explained that the FY 23-24 budget calendar has experienced some delay because of uncertainties in regard to the outcome of Senate Bill 108. Manager Perkins noted that the budget presentation should now take place next week and the public hearing should be set at an upcoming meeting. It was noted that the public hearing will now be scheduled for June 28th at 5:00 p.m.

Commissioner DiOrio made a motion to adopt the proposed amendments to the FY 23-24 Budget Calendar. Commissioner Bryant seconded and all voted in favor.

The updated budget calendar is as follows:

FISCAL YEAR 2023-2024 BUDGET CALENDAR

DEADLINE	TASK
Week of January 31 2023	Distribute FY 23-24 operational budget materials to department heads and key staff personnel. Also, Capital Improvement Program (CIP) also distributed for review and possible additions.
March 1, 2023-March 25, 2023	Departmental meetings with Finance (and Town Manager as necessary) to determine preliminary operational budget requests. Finance reviews with Town Manager. Draft recommended operational budget.
Week of April 1, 2023 - April 22, 2023	Budget sessions with staff, Manager and Finance continue. Revenue projections and estimates are generated. Final staff reviews and budget document editing. -CIP is finalized.
Late April, 2023	Revenue estimates finalized. County property tax value estimates due. Final Draft is completed
May, 2023	May 17, 2023-Town Manager presents FY 2023-24 budget to Council. Council reviews. Council work sessions are scheduled throughout the month for changes to be incorporated into final budget document.
June 28, 2023	Hold public hearing on proposed budget. Adoption of budget.

X. NEW BUSINESS

D. BUDGET UPDATE

Finance Director Stephen Ford explained that property values were received today from the county. Director Ford added that these values can be used to determine revenue neutral calculations. Director Ford noted that the Town’s values increased more than any other municipality in Rutherford County. Director Ford suggested that the Town needs to consider and discuss needs, and to consider the revenue neutral rate and other options. Director Ford reported that department heads had submitted their budgets responsibly. Director Ford expressed optimism. Mayor Pritchett added that the Town has been fiscally responsible and has a healthy budget.

X. NEW BUSINESS

E. RESOLUTION NO. 23-05-09B ADOPTING RECORD RETENTION POLICY FOR DOCUMENTS CREATED OR MAINTAINED PURSUANT TO THE AMERICAN RESCUE PLAN ACT / CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Director Ford explained that the policies proposed at this meeting are in regards to American Rescue Plan Act (ARPA) funds that the Town was awarded and that this policy details how the Town will responsibility maintain records in relation to ARPA.

Manager Perkins explained that the first resolution is specific to records retention and maintenance of documents specific to ARPA.

Commissioner Doster made a motion to adopt Resolution No. 23-05-09B Adopting Record Retention Policy for Documents Created or Maintained Pursuant to the American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds. Commissioner DiOrio seconded and all voted in favor.

Resolution No. 23-05-09B Adopting Record Retention Policy for Documents Created or Maintained Pursuant to the American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds was adopted as follows:

RESOLUTION NO. 23-05-09B

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE ADOPTING RECORD RETENTION POLICY FOR DOCUMENTS CREATED OR MAINTAINED PURSUANT TO THE AMERICAN RESCUE PLAN ACT / CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS AWARD

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

WHEREAS, U.S. Department of Treasury set forth terms, conditions, and compliance and reporting guidance for record retention of ARP/CSLFRF; and

WHEREAS, the Town of Lake Lure will follow the U.S. Treasury's record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town of Lake Lure Town Council hereby adopts the below Records Retention Policy, as follows:

TOWN OF LAKE LURE
RECORD RETENTION POLICY: DOCUMENTS CREATED OR MAINTAINED
PURSUANT TO THE ARP/CSLFRF AWARD

Retention of Records: The Coronavirus Local Fiscal Recovery Funds ("CSLFRF") [Award Terms and Conditions](#) and the [Compliance and Reporting Guidance](#) set forth the U.S. Department of Treasury's ("Treasury") record retention requirements for the ARP/CSLFRF award.

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

- Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.
- Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act "ARPA," Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of timely and unrestricted access to any records for the purpose of audits or other investigations.
- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

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

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

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

- Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- Indirect cost rate proposals

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

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

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

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

Questions About the Policy: Any questions about this policy should be referred to the Town Clerk (828-625-9983 x 104; ostewman@townoflakelure.com), who is in charge of administering, enforcing, and updating this policy.

SECTION TWO. This Resolution and Record Retention shall become effective upon adoption.

READ APPROVED AND ADOPTED this 9th day of May, 2023

X. NEW BUSINESS

F. RESOLUTION NO. 23-05-09C ADOPTING NONDISCRIMINATION POLICY

Manager Perkins explained that this is another resolution that the Town needs to pass for ARPA. Manager Perkins reviewed acts detailed in the policy.

Commissioner DiOrio made a motion to adopt Resolution No. 23-05-09C Adopting Nondiscrimination Policy. Commissioner Bryant seconded and all voted in favor.

Resolution No. 23-05-09C Adopting Nondiscrimination Policy was adopted as follows:

RESOLUTION NO. 23-05-09C

**RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE ADOPTING
NONDISCRIMINATION POLICY**

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

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

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

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

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF LAKE LURE, NORTH CAROLINA:**

SECTION ONE. The Town of Lake Lure Town Council hereby adopts the below Nondiscrimination Policy, as follows:

Town of Lake Lure
Nondiscrimination Policy Statement

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

I. Governing Statutory & Regulatory Authorities

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

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

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

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

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

III. Reporting & Enforcement

1. The Town of Lake Lure shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Town of Lake Lure shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. The Town of Lake Lure shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The Town of Lake Lure shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the Town of Lake Lure in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence:

William H. Perkins, Jr., Town Manager, whperkins@townoflakelure.com

SECTION TWO. This Resolution and Nondiscrimination Policy shall become effective upon adoption.

READ APPROVED AND ADOPTED this 9th day of May, 2023

X. NEW BUSINESS

G. RESOLUTION NO. 23-05-09D ADOPTING ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT / CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Director Ford noted that this policy pertains to expenditures and allowable costs related to ARPA. Director Ford added that the policy provides the approval process of allowable costs for ARPA.

Commissioner DiOrio made a motion to adopt Resolution No. 23-05-09D Adopting Allowable Costs and Costs Principles Policy for Expenditure of American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds. Commissioner Bryant seconded and all voted in favor.

Resolution No. 23-05-09D Adopting Allowable Costs and Costs Principles Policy for Expenditure of American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds was adopted as follows:

RESOLUTION NO. 23-05-09D

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE ADOPTING ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT / CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

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

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

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

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

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

Allowable Costs/Cost Principles. As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that ARP/CSLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.

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

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

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

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

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

- (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.
- (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.
- (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.
- (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.
- (f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of Federal awards for research must be recognized in the application of these principles.
- (g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town of Lake Lure Town Council hereby adopts the below Allowable Costs and Costs Principles Policy, as follows:

TOWN OF LAKE LURE
ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY

OVERVIEW

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

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

Responsibility for following these guidelines lies with Mayor Carol C. Pritchett, Mayor Pro Tem David DiOrio, Commissioner Patrick Bryant, Commissioner Jim Proctor, Commissioner Scott Doster, Town Manager, Town Attorney, Finance Director, and Project Manager, who are charged with the administration and financial oversight of the ARP/CSLFRF. Further, all local government employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the Town Manager, Town Attorney, Finance Director, and Project Manager. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

GENERAL COST ALLOWABILITY CRITERIA

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

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

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

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

- Whether the cost addresses project goals and objectives and is based on program data.

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

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

- 2. Be allocable to the ARP/CSLFRF federal award.** A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program. *For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program.*

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

- 3. Be authorized and not prohibited under state or local laws or regulations.**

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

SELECTED ITEMS OF COST

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

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

Exhibit A identifies and summarizes the Selected Items of Cost.

DIRECT AND INDIRECT COSTS

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

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

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

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

SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

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

§ 200.444 General costs of government.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in [§ 200.475](#)). Unallowable costs include:

- (1) Salaries and expenses of the Office of the Governor of a [state](#) or the chief executive of a [local government](#) or the chief executive of an [Indian tribe](#);
- (2) Salaries and other expenses of a [state](#) legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
- (3) Costs of the judicial branch of a government;
- (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in [§ 200.435](#)); and
- (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

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

§ 200.416 COST ALLOCATION PLANS AND INDIRECT COST PROPOSALS.

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

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

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

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

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

§ 200.417 INTERAGENCY SERVICE.

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

COST ALLOWABILITY REVIEW PROCESS

PREAPPROVAL COST ALLOWABILITY REVIEW

Before an ARP/CSLFRF-funded project is authorized, the Town Manager, Finance Director, and Project Manager must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost

items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

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

POST-EXPENDITURE COST ALLOWABILITY REVIEW

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

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Finance Director will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The Finance Director must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the Finance Director must proceed through the local government's normal disbursement process.
- If any cost item is deemed unallowable, the Finance Director will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF

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

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

COST TRANSFERS

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

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

EXHIBIT A

Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 CFR § 200.421	Allowable with restrictions
Advisory councils	2 CFR § 200.422	Allowable with restrictions
Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Not specifically addressed
Audit services	2 CFR § 200.425	Allowable with restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Not specifically addressed

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Compensation – personal services	2 CFR § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5))
Compensation – fringe benefits	2 CFR § 200.431	Allowable with restrictions
Conferences	2 CFR § 200.432	Allowable with restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with exceptions
Contributions and donations	2 CFR § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435	Allowable with restrictions
Depreciation	2 CFR § 200.436	Allowable with qualifications
Employee health and welfare costs	2 CFR § 200.437	Allowable with restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with exceptions
Equipment and other capital expenditures	2 CFR § 200.439	Allowability based on specific requirement
Exchange rates	2 CFR § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with exceptions
Fund raising and investment management costs	2 CFR § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200.443	Allowable with restrictions
General costs of government	2 CFR § 200.444	Unallowable with exceptions
Goods and services for personal use	2 CFR § 200.445	Unallowable (goods/services); allowable (housing) with restrictions

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Idle facilities and idle capacity	2 CFR § 200.446	Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with restrictions
Intellectual property	2 CFR § 200.448	Allowable with restrictions
Interest	2 CFR § 200.449	Allowable with restrictions
Lobbying	2 CFR § 200.450	Unallowable
Losses on other awards or contracts	2 CFR § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)
Maintenance and repair costs	2 CFR § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 CFR § 200.455	Unallowable except federal prior approval
Participant support costs	2 CFR § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 CFR § 200.457	Allowable; capital expenditures are subject to § 200.439
Pre-award costs	2 CFR § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 CFR § 200.459	Allowable with restrictions
Proposal costs	2 CFR § 200.460	Allowable with restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with restrictions

Rearrangement and reconversion costs	2 CFR § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 CFR § 200.463	Allowable with restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 CFR § 200.466	Not specifically addressed
Selling and marketing costs	2 CFR § 200.467	Unallowable with exceptions
Specialized service facilities	2 CFR § 200.468	Allowable with restrictions
Student activity costs	2 CFR § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with restrictions
Termination costs	2 CFR § 200.471	Allowable with restrictions
Training and education costs	2 CFR § 200.472	Allowable for employee development
Transportation costs	2 CFR § 200.473	Allowable with restrictions
Travel costs	2 CFR § 200.474	Allowable with restrictions
Trustees	2 CFR § 200.475	Not specifically addressed

SECTION TWO. This Resolution and Allowable Costs and Costs Principles Policy shall become effective upon adoption.

READ APPROVED AND ADOPTED this 9th day of May, 2023

X. NEW BUSINESS

H. RESOLUTION NO. 23-05-09E ADOPTING ELIGIBLE USE POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT / CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Director Ford explained that this, opposed to the previous policy, discusses what uses of the ARPA funds are eligible. Director Ford expanded that the policy ensures that the Town is using ARPA funds in the proper context of what is applied for.

Commissioner DiOrio made a motion to adopt Resolution No. 23-05-09E Adopting Eligible Use Policy for the Expenditure of American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds. Commissioner Doster seconded and all voted in favor.

Resolution No. 23-05-09E Adopting Eligible Use Policy for the Expenditure of American Rescue Plan Act / Coronavirus State and Local Fiscal Recovery Funds was adopted as follows:

RESOLUTION NO. 23-05-09E

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE ADOPTING ELIGIBLE USE POLICY FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY TOWN COUNCIL OF THE TOWN OF LAKE LURE

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

WHEREAS, U.S. Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

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

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

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

WHEREAS, U.S. Treasury has issued a [Compliance and Reporting Guidance v.3.0 \(February 28, 2022\)](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states on page 6 that

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

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town of Lake Lure Town Council hereby adopts the below Eligible Use Policy, as follows:

TOWN OF LAKE LURE
ELIGIBLE USE POLICY

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

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

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

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

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;

3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

II. PROHIBITED USES OF ARPA FUNDING

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

1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);
2. To borrow money or make debt service payments;
3. To replenish rainy day funds or fund other financial reserves;
4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the Town of Lake Lure to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);
5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318(c).
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The Town of Lake Lure and any of its contractors or sub-recipients, may not expend any ARP/CSLFRF funds for these purposes.

III. PROCEDURES FOR PROJECT APPROVAL

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

1. Requests for ARP/CSLFRF funding, must be made in writing. The Finance Director shall furnish a request form that will include all the following:
 - a. Brief description of the project

- b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in in the Appendix to the US Treasury Compliance and Reporting Guidance.)
 - c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARP funding should review the Final Rule and Final Rule Overview prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with the Town of Lake Lure’s Allowable Cost Policy.
 - e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)
2. Requests for funding must be submitted to the Project Manager for approval. All requests will be reviewed by the Town Manager for ARP/CSLFRF compliance and by the Finance Director for allowable costs and other financial review.
 3. No ARP/CSLFRF may be obligated or expended before final written approval by the Town Manager. Town Council approval will be required. When applicable, budget amendments may also be required before approval.
 4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.
 5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the Town Manager and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the Town Manager immediately.
 6. The Finance Director must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.
 7. The Finance Director must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

SECTION TWO. This Resolution and Eligible Use Policy shall become effective upon adoption.

READ APPROVED AND ADOPTED this 9th day of May, 2023

X. NEW BUSINESS

I. RESERVOIR DRAIN VALVE BID UPDATE

Project Manager Michael Dydula explained that the Town received bids for the reservoir drain valve installation, and that he and Schnabel Engineering have reviewed bids and are in the process of recommending the lowest bidder. Manager Perkins noted that this will be discussed in detail at the special Council meeting scheduled tomorrow, May 10th.

X. NEW BUSINESS

J. RESOLUTION NO. 23-05-09F AUTHORIZING THE TOWN MANAGER TO APPROVE EXEMPTIONS FROM MINI-BROOKS ACT IN ACCORDANCE WITH N.C.G.S. 143-64.32

Manager Perkins explained that N.C.G.S. 143-64.32 detailing the Mini-Brooks Act and Qualification Based Selection (QBS), includes a provision that the jurisdiction can select services without going through the QBS process for projects under \$50,000. Manager Perkins explained that staff is recommending, through the resolution, that the Town Manager approve exemptions and file such exemptions in the Clerk's office.

Commissioner DiOrio asked for verification that this resolution provides the Town Manager with the ability to execute exemptions and that Town Council will not have to approve each exemption on a case by case basis. Manager Perkins confirmed that Commissioner DiOrio is correct and that the resolution is a transparency piece.

Commissioner DiOrio made a motion to adopt Resolution No. 23-05-09F Authorizing the Town Manager to Approve Exemptions from Mini-Brooks Act in Accordance with N.C.G.S. 143-64.32. Commissioner Proctor seconded and all voted in favor.

Resolution No. 23-05-09F Authorizing the Town Manager to Approve Exemptions from Mini-Brooks Act in Accordance with N.C.G.S. 143-64.32 was adopted as follows:

RESOLUTION NO. 23-05-09F

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE AUTHORIZING THE TOWN MANAGER TO APPROVE EXEMPTIONS FROM MINI-BROOKS ACT IN ACCORDANCE WITH N.C.G.S. 143-64.32

WHEREAS, North Carolina General Statute 143-64.32 authorizes a unit of local government to exempt itself from the Mini-Brooks Act for particular projects where an estimated professional fee is in an amount less than \$50,000; and

WHEREAS, Projects that qualify for exemption from the Mini-Brooks Act under the provisions of G.S. 143-64.32 would, upon authorized approval, allow that the Town omit the QBS process and select professional services covered by G.S. 143-64.32 such as architects, engineers, surveyors, or alternative construction delivery method firms by method of choice; and

WHEREAS, the Town of Lake Lure may benefit from exempting itself from the Mini-Brooks Act for various qualifying projects.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA:

SECTION ONE. The Town of Lake Lure Town Council authorizes the Town Manager to approve exemptions for qualifying Mini-Brooks Act projects under the provisions of G.S. 143-64.32.

SECTION TWO. The Town Manager shall approve such exemptions through means of letter or memo.

SECTION THREE. The approved exemption letter or memo shall be filed with the Town Clerk and retained in accordance with any state or town records retention schedules or policies.

READ APPROVED AND ADOPTED this 9th day of May, 2023

X. NEW BUSINESS

K. PAVING CONTRACT APPROVAL

Public Services Administrative Technician Andy Ogle detailed that the Public Services Department requested bids for paving and that the lowest responsible bidder, Scott Construction, is being recommended. Commissioner Doster asked if this is the same company that has paved for the Town in the past and Mrs. Ogle answered yes. Commissioner DiOrio asked if this will absorb all of the Powell bill funds for this fiscal year and Director Ford answered yes.

Commissioner Bryant made a motion to approve a paving contract with Scott Construction, Inc. Commissioner Proctor seconded and all voted in favor.

X. NEW BUSINESS

L. LABELLA TASK 6 PROPOSED REVISION 2

Project Manager Dydula explained that LaBella task 6 is for the Wastewater Treatment Plant (WWTP) and that the proposed amendment includes the addition of a belt press. It was noted that the cost of the belt press will replace the two unspent line items in LaBella task 6.

Commissioner Bryant made a motion to approve LaBella Task 6 proposed revisions 2. Commissioner Proctor seconded and all voted in favor.

XI. CLOSED SESSION

Commissioner Proctor made a motion to enter into closed session in accordance with G.S. 143-318.11(a) (1) concerning information made confidential by law and G.S. 143-318.11(a) (3) for attorney client privilege or legal claims. Commissioner DiOrio seconded and the motion carried 4-0.


During closed session, Council discussed privileged information in regard to interest in utilization of a Town owned property and various ongoing legal cases.

Commissioner Doster made a motion to return to open session. Commissioner Bryant seconded and all voted in favor.

XII. ADJOURNMENT

With no further business, Commissioner DiOrio made a motion to adjourn the meeting at 8:40 p.m. Commissioner Doster seconded and the motion carried 4-0.

ATTEST:



Olivia Stewman, Town Clerk

Mayor Carol C. Pritchett

