



Agenda

Town Council Meeting – April 9, 2026

CALL TO ORDER Mayor

APPROVAL OF AGENDA Mayor

CALL FOR PUBLIC COMMENTS Mayor

COUNCIL COMMENTS Mayor

MANAGER UPDATES

CONSENT AGENDA

- A. Approval of the [Tax Collector Report](#)
- B. Approval of Minutes-[March 26 Regular Meeting](#)
- C. Approval of Minutes- [March 26 Business Meeting](#)
- D. [Set a public hearing for April 23, 2026 for R-26-01 Conventional Rezoning application](#)

PROCLAMATION

[Proclamation Honoring the Blue Ridge Honor Flight](#)

REGULAR AGENDA

- A. Presentation by Agribusiness Henderson County
Presented by Executive Director Jeff Chandler
- B. [Presentation by Henderson County Partnership for Economic Development](#)
Presented by Brittany Brady, President HCPED
- C. [Consideration of the N. Loop Repair Contract, Resolution 2026-07](#)
Presented by Matthew McKirahan
- D. [Approval of Budget Amendment, Grant Project Ordinance- FEMA, Ordinance 2026-03](#)
Presented by Matthew McKirahan
- E. [Nuisance Ordinance-Consideration of setting a public hearing on May 14](#)
Presented by Matthew McKirahan and Michael Malecek

OTHER BUSINESS

ADJOURN

Vision

The Town of Mills River preserves, sustains, and cultivates community

Mission

To foster community well-being

Values

Respect • Service • Integrity

STAFF REPORT

Town Council, Thursday, April 9, 2026

Title: Year To Date Tax Collection

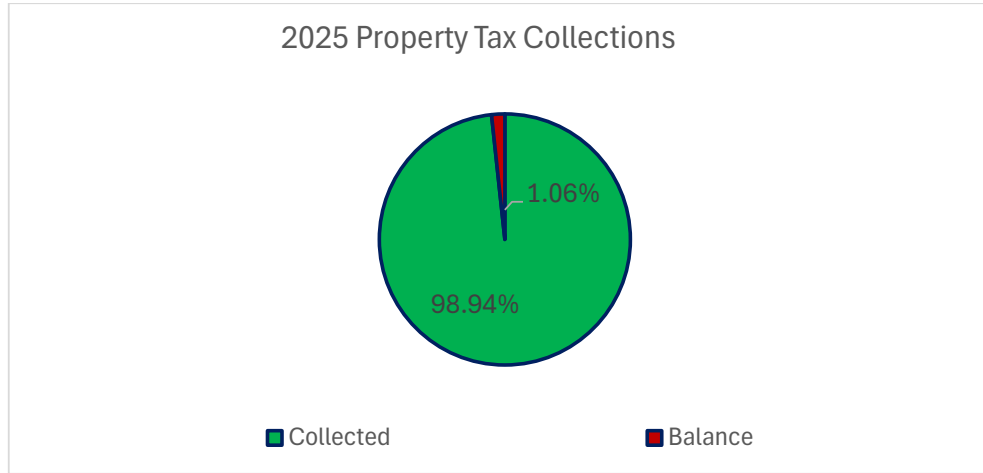
Speaker: Kristen Rintoul, Tax Collector

Prepared by: Tax Department

Approved by: Matthew McKirahan, Town Manager

Background

Per North Carolina General Statute 105-350 (7), the general duties of the Tax Collector include submitting to the governing body a report of the amounts collected on each year's taxes, the amount remaining uncollected, and the steps being taken to encourage the payment of uncollected taxes.



Beginning Balance		March EOM		Year To Date		
Tax Year	Scroll Total	Adjustments	Collected	Adjustments	Collected	Balance to Collect
2025	3,817,612.64		46,612.02	59,945.57	3,835,603.21	41,955.00
2024	14,585.42		870.45	1,199.69	7,927.38	7,857.73
2023	9,036.14		190.40	381.96	1,899.10	7,519.00
2022	8,156.19		146.68	450.14	631.46	7,974.87
2021	6,157.10		139.48	450.14	266.71	6,340.53
2020	4,511.06			121.51	59.72	4,572.85
2019	3,774.49			0.00	15.96	3,758.53
2018	3,627.27			0.00	15.12	3,612.15
2017	2,758.29			0.00	15.12	2,743.17
2016	1,999.07			0.00	15.12	1,983.95
2015	696.87			0.00	9.44	687.43
Total Prev. Years	55,301.90	0.00	1,347.01	2,603.44	10,855.13	47,050.21

"Adjustments" include deferments, exemptions and exclusions received with the scroll from Henderson County as well as bills less than \$5.00, releases received from the County, underpayments less than \$1.00, discovery of taxable property during the year, utility properties billed through NCDOR, and disqualification of property from the Present Use Value program. These numbers are UNAUDITED.

Town of Mills River
Regular Meeting of the Town Council
Thursday, March 26, 2026

Mills River Town Council met on Thursday, March 26, 2026, at 6:30 PM in Mills River Town Hall. The public was allowed to attend in-person or watch via internet streaming. Mayor Gonce called the meeting to order and led the Pledge of Allegiance.

Council present: Mayor Shanon Gonce
Mayor Pro Tem Jeff Moore
Council member James Cantrell
Council member Sandra Goode
Council member Brian Kimball

Staff Present: Town Manager Matthew McKirahan
Town Clerk Patty Brown
Finance Director Julie Osteen
Planning Director Michael Malecek
Town Attorney Brian Gulden

Council member Cantrell made a motion to approve the agenda as presented. Council member Goode seconded the motion, and it passed unanimously.

PUBLIC COMMENTS

- Deedee Dillingham, 19 Tiger Lily Lane, spoke in favor of keeping the UDO as presented without removing anything until you see it needs to lighten in areas. She also would like the UDO to address tiny homes.
- Jasmine Browne, 214 Rockbridge Road, spoke in favor of the UDO.
- Julie Schlegel, 116 Rockbridge Road, spoke in favor of the UDO.

COUNCIL COMMENTS

- Council member Goode thanked everyone for all the input received on the UDO.
- Council member Moore is excited to participate in the Blue Ridge Honor Flight on Saturday, April 18. Everyone is encouraged to come out and welcome our veterans home.
- Council member Kimball congratulated Planning Technician Kevin Webb on the arrival of his baby.

MANAGER UPDATES

Mr. McKirahan gave an update on the North Loop project, which has been let out for bid. The public will stay informed on progress through updates on our social media pages and our website.

CONSENT AGENDA

- A. [Approval of Tax Collector Report](#)
- B. Approval of Minutes- March 12 Regular Meeting
- C. Approval of Minutes- March 12 Business Meeting
- D. Approval of [Resolution 2026-06, a Resolution Temporarily Pausing Zoning Text and Map Amendments](#)
- E. Adoption of [Ordinance 2026-01](#), Amendment to Grant Project Ordinance- FEMA

Council member Goode made a motion to approve the Consent Agenda as presented. Council member Kimball seconded the motion, and it passed unanimously by verbal assent.

Advisory Board/Committee Updates

Bert Lemkes, 134 Rolling Hills Road, Agricultural Advisory Committee Chair, brought forth a [recommendation](#) to Town Council. The Agricultural Advisory Committee would like this consideration to be heard before the UDO is potentially adopted.

REGULAR AGENDA

A. Approval of the Interlocal Agreement with Henderson County and adoption of Resolution 2026-04, Enforcement of the Historic Preservation Ordinance

Council received the [Staff Report](#) on this item. Autumn Radcliff, Henderson County Planning Director was available to answer questions from Council. Council member Kimball made a motion to set a public hearing for April 23 for consideration of an Interlocal Agreement with Henderson County and potential adoption of a Historic Landmark Ordinance and Resolution 2026-04. The motion was seconded by Council member Moore and passed unanimously.

Other Business –

Staff was directed to add an agenda item to the April 9 business meeting for discussion on the Hazard Prevention Ordinance, showing the current version pertaining to agricultural, the other options presented when it was adopted, and how it is drafted in the UDO.

There being nothing further, the meeting was adjourned on the motion of Council member Moore and seconded by Council member Kimball at 7:00 p.m. It passed unanimously.

Respectfully Submitted:

Approved:

Patty Brown, CMC, NCCMC
Town Clerk

Shanon Gonce
Mayor

**Town of Mills River
Business Meeting of the Town Council
Thursday March 26, 2026**

Mills River Town Council met on Thursday, March 26, 2026, in Mills River Town Hall after their regular meeting. The public was allowed to attend in-person or watch via internet streaming. Mayor Gonce called the meeting to order.

Council present: Mayor Shanon Gonce
Mayor Pro Tem Jeff Moore
Council member James Cantrell
Council member Sandra Goode
Council member Brian Kimball

Staff Present: Town Manager Matthew McKirahan
Town Clerk Patty Brown
Finance Director Julie Osteen
Planning Director Michael Malecek
Town Attorney Brian Gulden

BUSINESS MEETING AGENDA

The meeting was called to order after the adjournment of the regular meeting on motion and second of Council members Kimball and Moore at 7:00 p.m.

A. Continued Discussion on the UDO project

Council was presented with Mr. Malecek's [Staff Report](#). There was continued discussion from Council regarding the UDO draft with questions posed to the consultant. No action was taken.

Council member Moore called a motion for a short recess at 7:43 p.m. The motion was seconded by Council member Kimball and passed unanimously. Council member Goode made a motion to reconvene the meeting at 7:48 p.m. The motion was seconded by Council member Kimball and passed unanimously.

B. NCDOT Speed Study

Council was presented with Mr. Malecek's [Staff Report](#) and [presentation](#) on NCDOT's Speed Limit Study Results. Staff was directed to begin drafting ordinances concurring with NCDOT's speed study findings to reduce the speed limits on subject roads and incorporate the new speed limits in the Town traffic schedule.

C. Nuisance Ordinance Discussion

Council received the staff report titled [Nuisance Ordinance Discussion](#), which included a presentation and Draft Nuisance Ordinance Changes. Feedback was given to Staff on the proposed changes. Two concerns were the definition of temporary storage sites and health hazards. No action was taken. Staff was directed to add an item to the April 9 Regular Meeting agenda for discussion and to possibly set a public hearing date in the future.

D. Potential Future Agenda items

The Floodplain Hazard Prevention Ordinance was once again discussed. If there are any modifications in the ordinance concerning agriculture, then restrictions on government agencies also need to be addressed.

The meeting was adjourned on the motion of Council member Goode and seconded by Council member Kimball at 9:26 p.m.

Respectfully Submitted:

Approved:

Patty Brown, CMC, NCCMC
Town Clerk

Shanon Gonce
Mayor

STAFF REPORT

Town Council, Thursday, April 9, 2026

Title: **R-26-01 – Set Public Hearing**

Speaker: Michael Malecek, Planning Director

Background

On March 2, 2026, the Town received a conventional rezoning application with full payment from Josh Israel, acting as agent for Mills River Fire & Rescue Department, the current owner of 100 Fanning Fields Road (PIN 9642228958). The application requests to rezone the subject property from Low-Density Residential (MR-30) to Neighborhood Commercial (MR-NC).

The applicant wishes to rezone to MR-NC so they can rebuild the Mills River Fire & Rescue Pryor Substation larger in size than the previous station that burned down. In the current residential zoning district (MR-30), public facilities and buildings are not permitted. In the proposed neighborhood commercial zoning district (MR-NC), public facilities and buildings are permitted by right.

The Planning Board is conducting a review and recommendation of this rezoning request at the April 7, 2026 meeting. Staff is requesting a quick turnaround to set the public hearing to avoid conflicting with the adoption phase of the UDO

Discussion

Town Council must set a public hearing date before staff can move forward with public notice requirements.

Discussion of this item and questions should be held until the public hearing, so citizens can listen, participate, and offer public comment.

Recommendation

Staff proposes setting a public hearing on April 23, 2026 for rezoning request, R-26-01.



PROCLAMATION

HONORING THE BLUE RIDGE HONOR FLIGHT PROGRAM

WHEREAS, the Blue Ridge Honor Flight program is dedicated to transporting America's Veterans and Gold Star Family Members to Washington, D.C., to visit the memorials dedicated to honor the service and sacrifices of themselves and their fellow service members; and

WHEREAS, the Honor Flight mission was born in 2004, when World War II veterans were personally flown by Earl Morse to Washington, D.C. to see the newly completed National World War II Memorial, recognizing that many veterans lacked the means to make the journey on their own; and

WHEREAS, in January 2006, Jeff Miller of Hendersonville, North Carolina was inspired by Morse's vision and boldly arranged to charter an aircraft to transport veterans at no cost, demonstrating the extraordinary power of community determination; and

WHEREAS, in 2006, the organization, HonorAir, flew more than 300 World War II veterans from the Asheville Regional Airport to Washington, D.C. entirely free of charge, providing medical personnel, personal guardians, transportation, and a hero's welcome that many veterans described as one of the most moving experiences of their lives; and

WHEREAS, in February 2007, Earl Morse and Jeff Miller merged their organizations to create the Honor Flight Network, which has since flown well over 300,000 veterans to their memorials in the nation's capital; and

WHEREAS, on September 24, 2016, the organization proudly took flight under the name Blue Ridge Honor Flight, marking its 500th mission; and

WHEREAS, Blue Ridge Honor Flight has expanded its mission to include veterans of World War II, the Korean War, and the Vietnam War, ensuring that all who served and sacrificed for our nation are honored and recognized; and

WHEREAS, the volunteers, donors, guardians, and supporters of Blue Ridge Honor Flight embody the finest traditions of community service and gratitude, giving countless hours and resources so that our veterans may receive the honor and recognition they so richly deserve.

NOW, THEREFORE, BE IT PROCLAIMED by the Town Council of the Town of Mills River, North Carolina, who hereby honors and recognizes the Blue Ridge Honor Flight for its extraordinary dedication to America's veterans, its deep roots in Western North Carolina, and its tireless commitment to ensuring that those who served our nation are welcomed home with the gratitude and respect they have earned; and

BE IT FURTHER PROCLAIMED that this Proclamation be presented to the Blue Ridge Honor Flight as a lasting symbol of the Town of Mills River's deep gratitude and proud support of all those who have worn the uniform of the United States Armed Forces.

Adopted this 9th day of April 2026.

Shanon Gonce, Mayor

Patty Brown, NCCMC, CMC

Town Clerk



February 19, 2026

Mr. Matthew McKirahan
Town of Mills River
124 Town Center Drive
Mills River, NC 28759

Dear Matthew:

On behalf of the Henderson County Partnership for Economic Development (HCPED) and the Economic Investment Fund (EIF), thank you for the opportunity to continue our dialogue with the Town of Mills River and the Mills River Town Council regarding economic development priorities. We value our partnership with the Town and appreciate your engagement in discussions that impact the long-term prosperity of both Mills River and Henderson County.

Mills River has experienced significant economic success over the past decade and has been one of the primary beneficiaries of countywide economic development efforts. While representing approximately 6% of Henderson County's population (7,214 of 117,387 residents), Mills River has captured more than \$505 million in capital investment and over 1,300 jobs—nearly half of the countywide totals of \$1.1 billion in investment and 3,300 jobs created.

At the same time, Mills River's direct financial participation in countywide economic development efforts has historically been lower than that of peer municipalities and, in some years, absent altogether. As economic development becomes increasingly competitive and resource-intensive, aligning municipal investment with realized economic benefit is essential to sustaining the momentum Mills River has achieved.

Maintaining and expanding high-quality employment opportunities requires sustained investment in business retention, recruitment, workforce development, and site readiness—particularly in communities like Mills River that continue to attract significant private-sector investment. In order to keep Mills River as a thriving community, there must be an investment in job creation for its citizens. There is opportunity and need for Mills River to partner in economic development, specifically at Ferncliff Park.

To support this work, we respectfully request FY26 funding of \$28,000 for HCPED to continue and expand industry retention, recruitment, and workforce development efforts that directly benefit Mills River employers and residents. We also request \$25,000 for the Economic Investment Fund, dedicated to site development and due diligence activities in Mills River, including continued advancement of Ferncliff Park. Following our Recovery Action Plan, we have restructured and expanded services to ensure that key sites remain competitive and positioned to attract the next generation of employers.

We appreciate the involvement of Mills River staff and elected officials in these conversations and believe that a more proportional investment by the Town will strengthen our shared economic development outcomes. By working together, we can ensure that Mills River remains competitive, prepared, and positioned for continued success.

Thank you for your consideration of this request and for your continued partnership. Please do not hesitate to reach out with questions or for additional information. We look forward to continued collaboration in the year ahead.

Sincerely,



Brittany Brady
President and CEO

FY 26-27 Funding Request

Town of Mills River





Mission Statement

The Henderson County Partnership for Economic Development, Inc. is the professional economic development entity for Henderson County. It works to: **attract and retain quality jobs; solicit new business compatible with the assets and values of Henderson County; promote Henderson County's business image; assist expansion of existing companies; and enhance Henderson County's overall quality of life.**

Program of Work

Existing Industry

- Retention Calls
- Neighborhood/Sector Meetings

Workforce

- Made In Henderson County



Marketing & Business Development

- Targeted trade missions & outreach
- Specific collateral



Product Development

- Economic Investment Fund





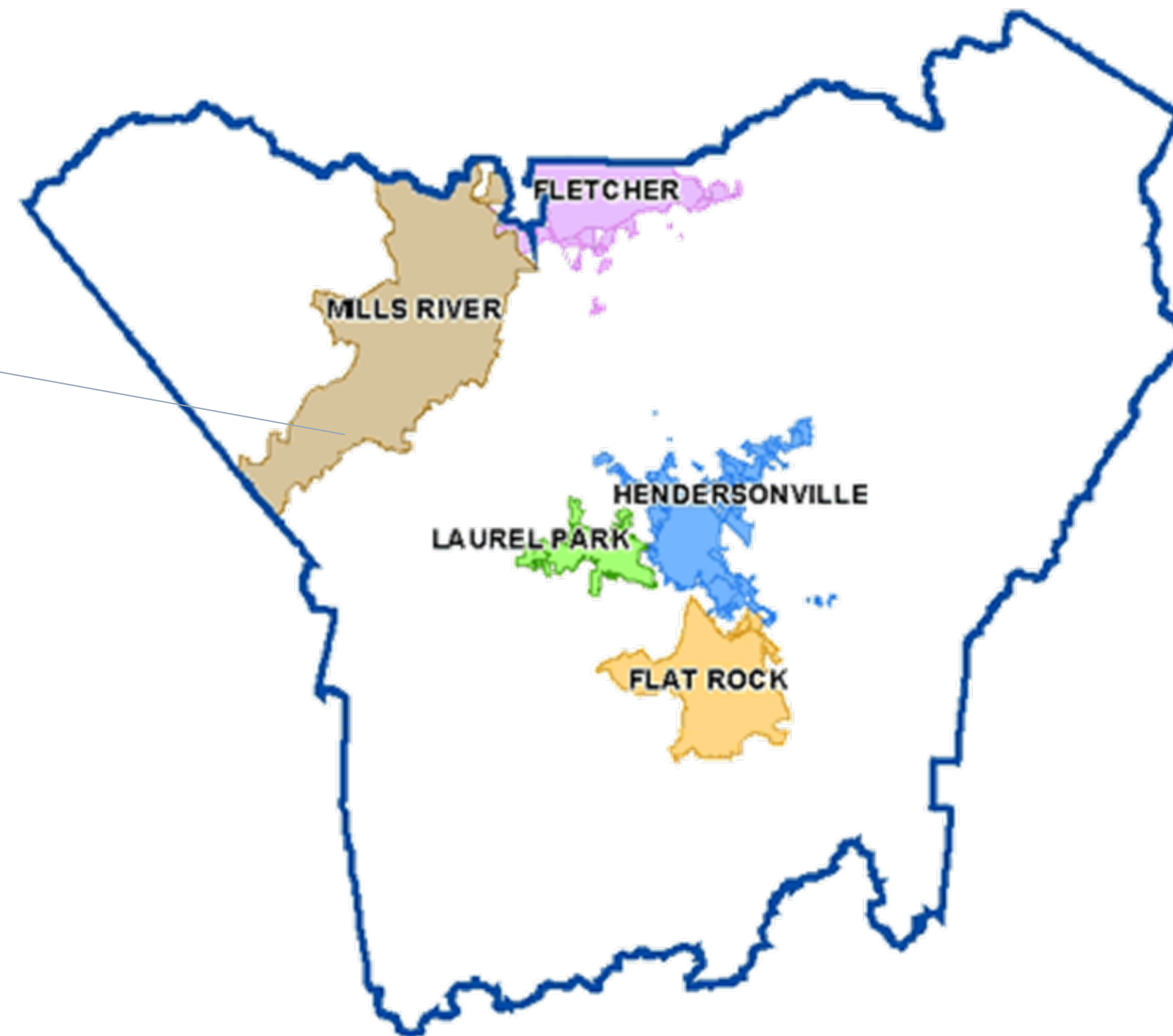
Economic Investment Fund

Economic Investment Fund of Henderson County lessen the burdens of government by protecting and advancing Henderson County's **quality employment and tax base capacity through product and workforce development**. It will improve Henderson County's competitive position for quality jobs, improving the lives of its citizens through **poverty alleviation, stimulating activity in economically challenged areas, and providing opportunity for unemployed and under-employed persons**. The fund will employ a product development strategy focused on identifying, optioning, and preserving real property, and improving the **marketability of real property through due diligence, infrastructure improvements, and site development**. The fund will support **proactive engagement with schools and students, increasing awareness about careers in manufacturing, and encouraging workforce preparedness**.

Preservation of our Tax Base

Town of Mills River

Total Investment:
\$503,300,000
Total Jobs: 1,357
Total Industry in Town: 23



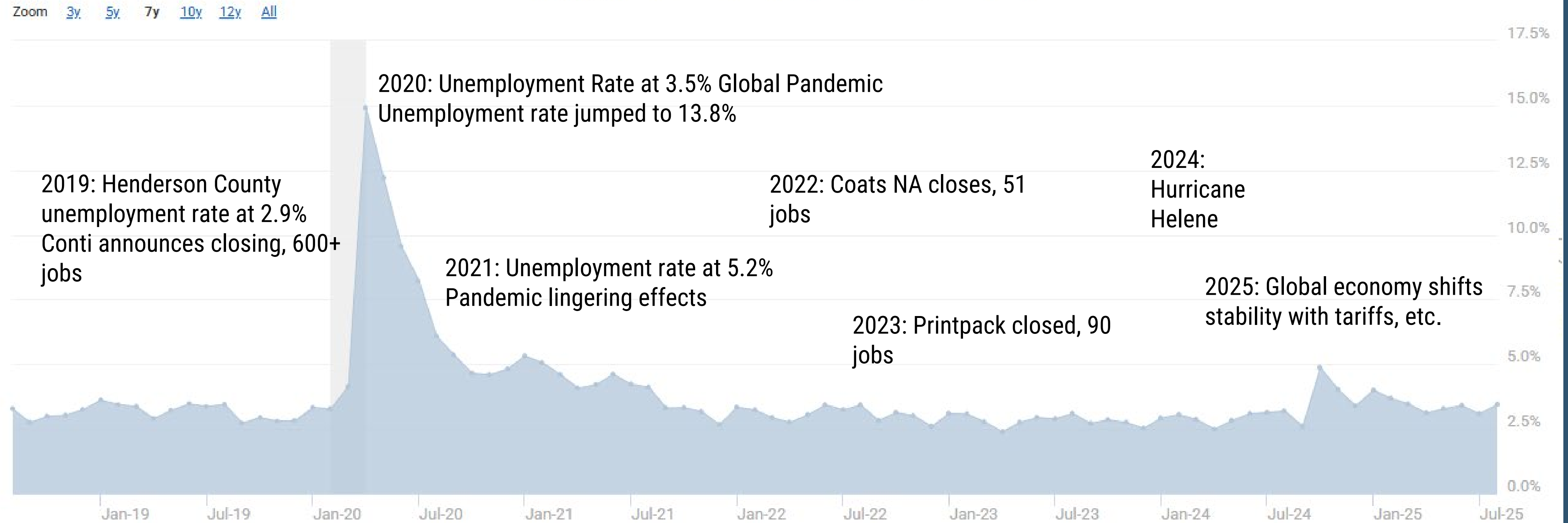
Henderson County

Total Investment: \$1,173,615,000
Total New Jobs: 3,370
Total Jobs Retained: 555
Total Manufacturing Jobs: 5729
Total Industry in County: 135

Why do we keep doing ED?

Economic Development is Cyclical

Unemployment Rate for Henderson County, North Carolina



Why do we keep doing ED? Slow job growth

31	Manufacturing	5,897	\$67,466	1.58	666		2.4%	604	234	355	14	0.2%
44	Retail Trade	5,821	\$39,682	1.26	-21		-0.1%	805	357	426	22	0.4%
72	Accommodation and Food Services	4,177	\$27,569	1.00	281		1.4%	755	321	402	32	0.8%
23	Construction	3,540	\$62,393	1.23	617		3.9%	326	118	175	33	0.9%
61	Educational Services	2,900	\$46,998	0.74	207		1.5%	269	132	141	-3	-0.1%
56	Administrative and Support and Waste Management and Remediation Services	2,695	\$47,371	0.93	114		0.9%	318	130	172	16	0.6%
81	Other Services (except Public Administration)	2,608	\$36,622	1.28	-598		-4.0%	313	129	163	20	0.8%
54	Professional, Scientific, and Technical Services	2,066	\$72,327	0.59	293		3.1%	185	66	98	21	1.0%

Nearly 6,000 jobs
\$67,466 average annual salary
Steady increase

The Value of Focusing On Industrial Development

Manufacturing Pays the Bills

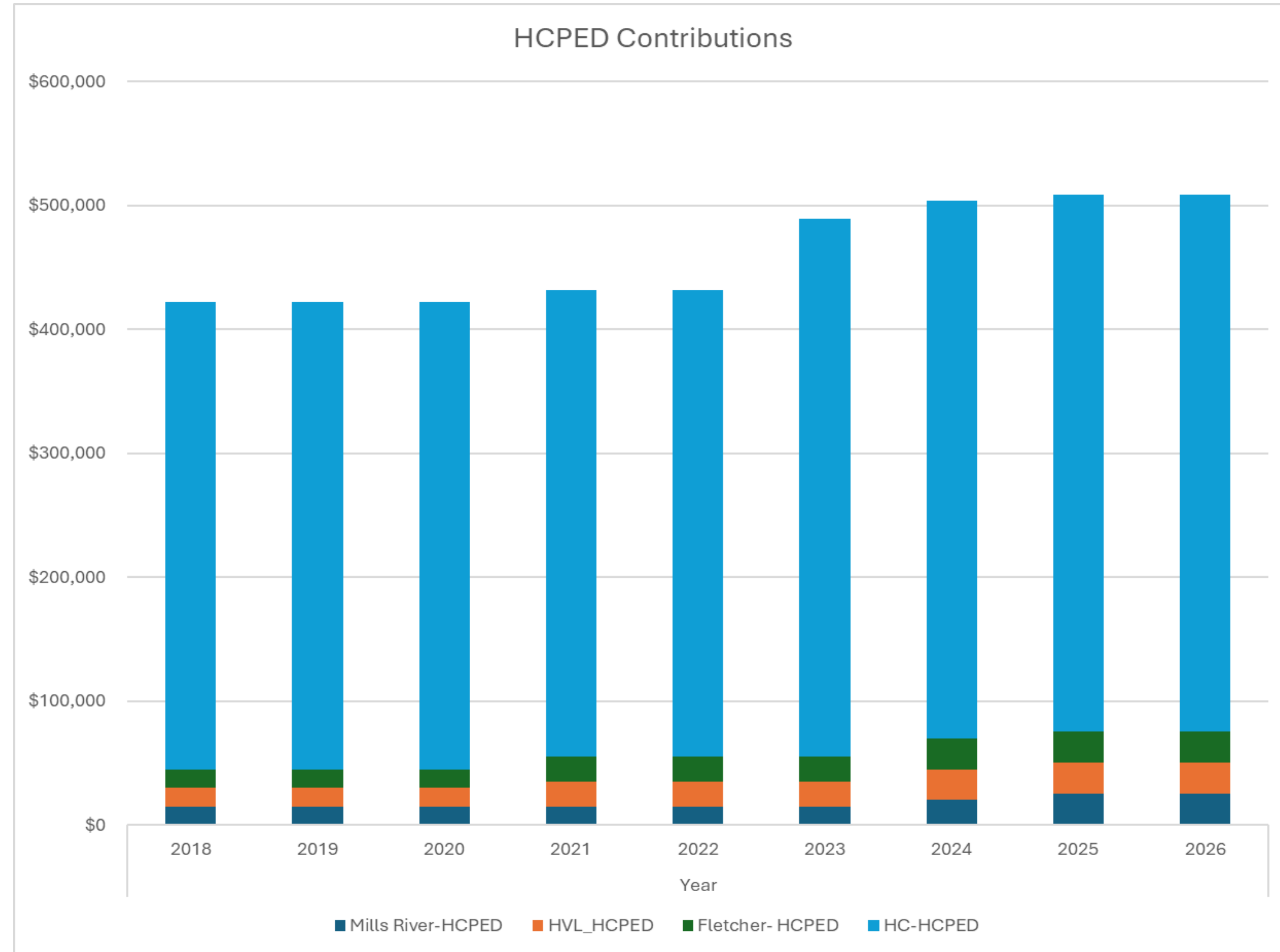
- Industry/Commercial is 30% of County tax base, but only 12% of services
- 17% of all industry is in Mills River
- 43% of all manufacturing investment is in Mills River
- Industrial Projects pay for themselves, residential projects are an expense to the community

Estimated that a family with two kids in public school need to live in a \$1.2 M house to break even.

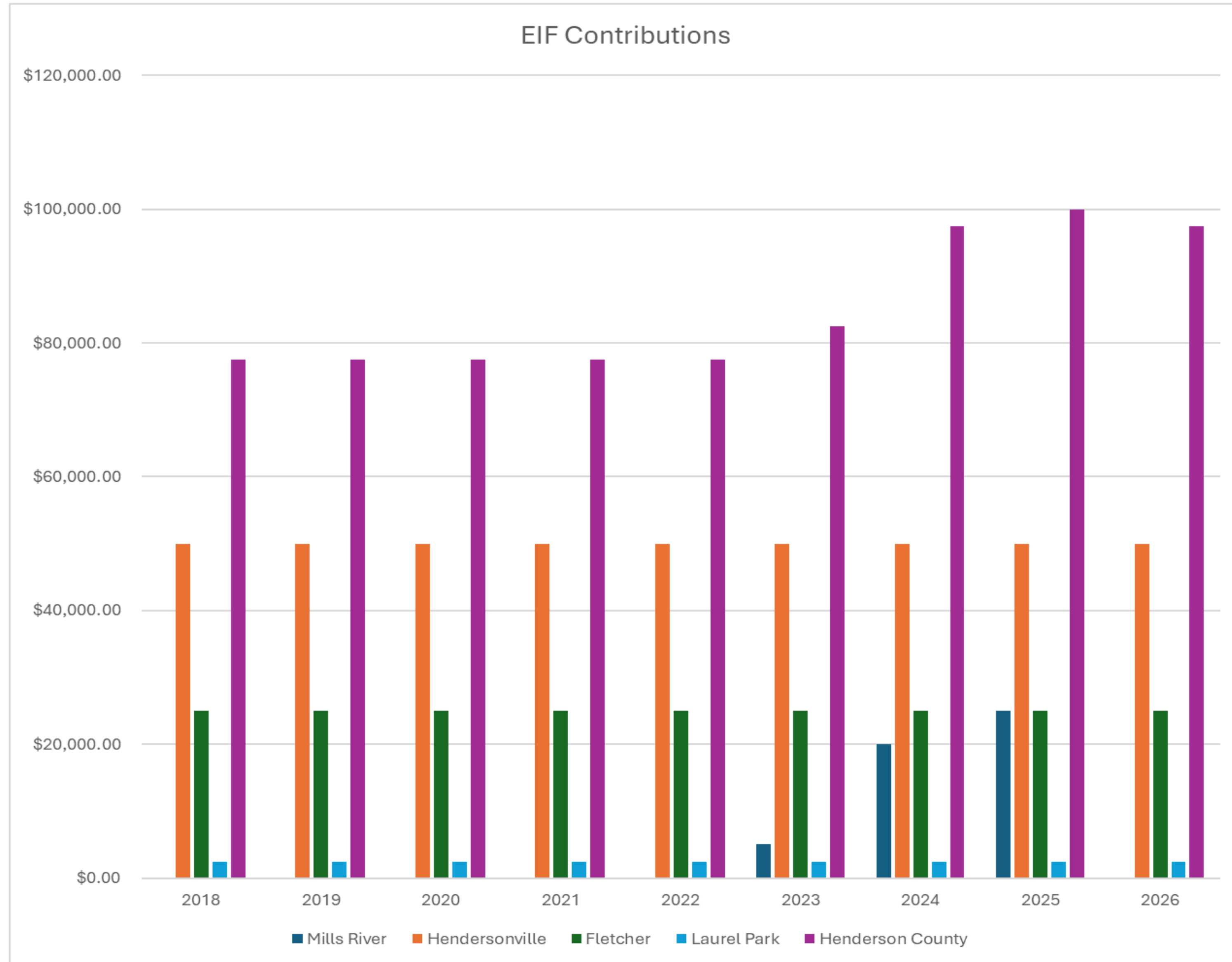
Manufacturing Pays the Bills.



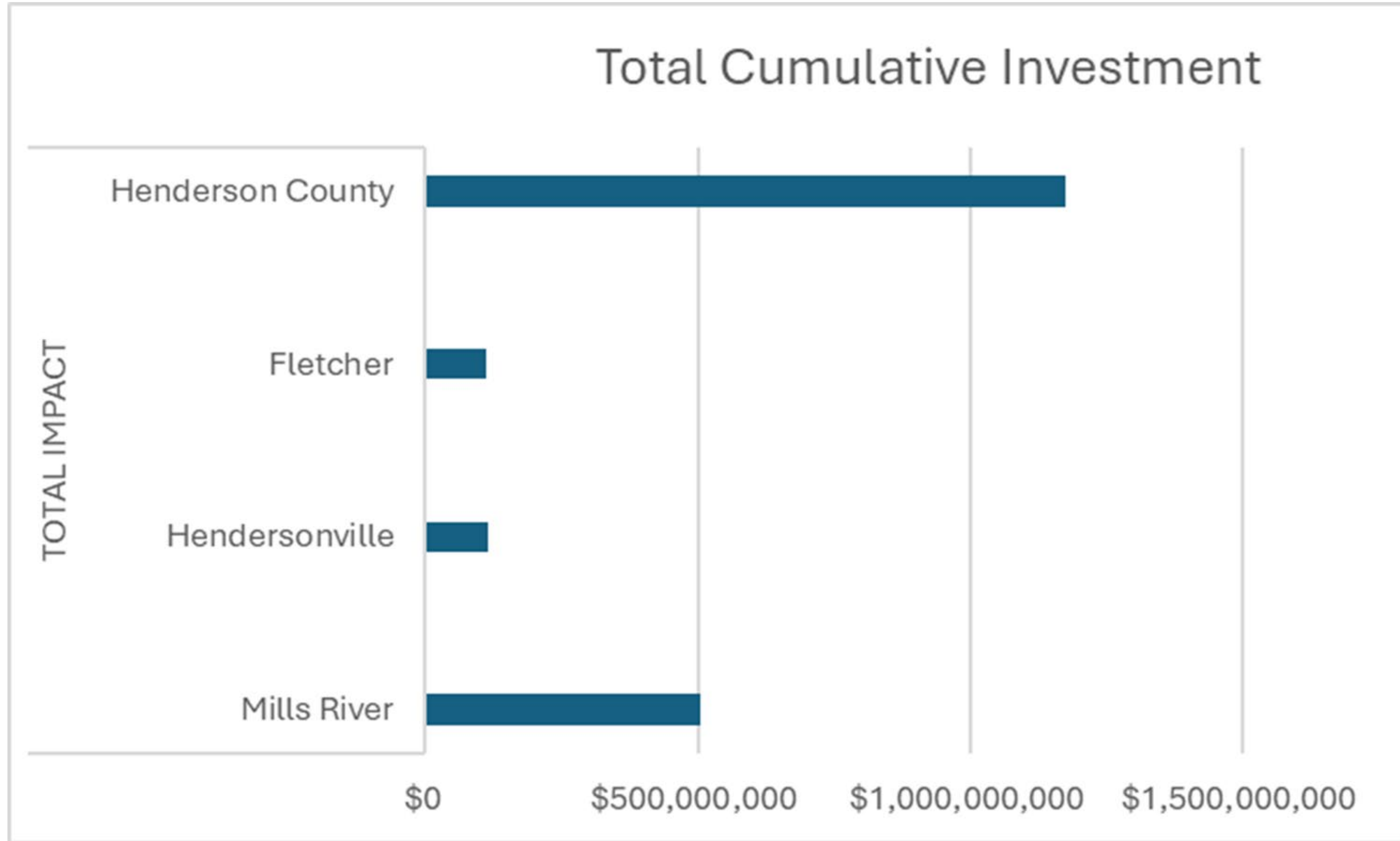
Current Contributions & Request



Current Contributions & Request



Current Contributions & Request



Questions?

STAFF REPORT

Town Council, Thursday, April 9, 2026

Title: **North Loop Project Update**

Speaker: Matthew McKirahan, Town Manager
Luke Baker, Project Manager/Geologist with TRC Engineers

Background

In September 2024, the Town of Mills River was impacted by flooding and damages associated with Tropical Storm Helene. The Town continues to progress repair projects through the FEMA Public Assistance Program.

On October 23, 2025, Council requested that Town staff pursue a reimbursement strategy for the Northern Loop repair project, including returning river access, meadow, and related projects to pre-Helene conditions. On March 4, 2026, the project was advertised for bids. Bids were received until April 1, 2026 at 11 a.m., at which time the three received bids were opened. TRC Engineers identified Lawing & Son Site Contractors, LLC of Flat Rock, NC as the low bidder with a based bid price of \$1,013,800.87.

Before Town Council is a resolution for consideration and adoption to authorize the Town Manager to enter negotiations and execute a contract with the lowest bidder, Lawing & Son Site Contractors.

Recommendation

Consideration and adoption of Resolution 2026-07

Attachments

Attachment A – Resolution 2026-07

Attachment B – Letter from TRC Engineers

Attachment C – Certified Bid Tabulation



RESOLUTION TO AWARD THE CONTRACT FOR THE NORTHERN LOOP REPAIR PROJECT

WHEREAS, the Town of Mills River was impacted by flooding and damages associated with Tropical Storm Helene; and

WHEREAS, the Northern Loop, including wildlife meadow, stormwater conveyance systems, parking lot, and Mills River access was deemed an eligible FEMA project; and

WHEREAS, the Town of Mills River advertised a Request for Proposals (RFP) for repairs, including regrading and restoration of the “Northern Loop” of the repair, including restoration of the wildlife meadow, repairing stormwater conveyance systems, repair of the gravel parking lots, and other activities to restore the park to the pre-disaster condition; and

WHEREAS, three (3) proposals were received, one each from Lawing & Son Site Contractors, LLC, Caolina Cleaning & Restoration, and Bradley & Conner Grading Contractors Inc. for the scope of work; and

WHEREAS, Lawing & Son Site Contractors, LLC was identified as the apparent low bidder with a base bid contract price of \$1,013,800.87; and

WHEREAS, Lawing & Son Site Contractors, LLC has met all of the requirements stipulated in the RFP to be qualified as a responsive bidder; and

WHEREAS, staff has reviewed the proposal along with the Town’s contracted engineering firm, TRC Engineers, and recommends the contract be awarded to Lawing & Son Site Contractors, LLC of Flat Rock, NC.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mills River, North Carolina that:

Section 1. Mills River Town Council hereby awards the contract in accordance with the RFP to Lawing & Son Site Contractors, LLC for the needs of the Town of Mills River’s Northern Loop repair project.

Section 2. The Town Manager is hereby authorized to negotiate and execute a contract on behalf of the Town.

ATTEST:

Shanon Gonce
Mayor

Patty Brown, CMC, NCCMC
Town Clerk



114 Edinburgh S. Drive, Ste. 200 T 919.827.0864
Cary, NC 27511 TRCcompanies.com

April 6, 2026

Town of Mills River, NC
Attention: The Honorable Mayor Shanon Gonce & Town Council Members
124 Town Center Drive
Mills River, North Carolina 28759

To Whom It May Concern:

As you are aware, the Town of Mills River was impacted by flooding and damages associated with Tropical Storm Helene in September 2024. The Town has currently been working to progress repair projects at the Town's municipal complex through FEMA's Public Assistance program.

In an effort to accelerate the repair and reopening of facilities at the Town's Park, the Town Council previously authorized the Town to move forward with developing a repair scope and soliciting bids for eligible repair projects. These repairs included regrading and restoration of the "Northern Loop" of the park, including restoration of the wildlife meadow, repairing stormwater conveyance systems, repair of the gravel parking lots, and other activities to restore the park to the pre-disaster condition.

On March 4th, 2026, the project was advertised for bids. A Prebid meeting was held on March 17th, where details of the project and requirements were discussed with interested contractors. Bids were received until April 1st, 2026 at 11:00 am. At that time, the Town received three bids for the proposed work. Bids were publicly opened and read aloud. After reviewing the bids received, TRC has identified Lawing and Son Site Contractors, LLC of Flat Rock, North Carolina, as the low bidder, with a base bid price of \$1,013,800.87.

TRC Engineers is currently reviewing bidder's references and qualification statements. A memorandum of findings and discussions will be shared with the Town Manager following responses received.

We recommend that the Mills River Town Council consider adopting a resolution to authorize the Town Manager to enter negotiations and execute a contract with the lowest bidder, Lawing & Son Site Contractors.

Should additional questions arise, please do not hesitate to contact Luke Baker (lbaker@trccompanies.com) at 919.827.0864.

Thank you,
TRC Engineers, Inc

A handwritten signature in black ink that reads "Luke Baker".

Luke Baker, PG
Project Manager

Attachments: Certified Bid Tabulation

Matthew McKirahan (Town of Mills River)
Nicole Sweat (Town of Mills River)
Ian Spurlock (TRC)
file

CERTIFIED BID TABULATION

PROJECT: Northern Loop Damage Repairs
PROJECT #: 675056.0000.0000
BID DATE: April 1, 2026
BID TIME: 11:00 AM
LOCATION: Town of Mills River Town Hall / Microsoft Teams

	Lawing & Son Site Contractor	Carolina Cleaning & Restoration	Bradley & Conner Grading Contractors Inc
Bid Bond	✓	✓	✓
Contractor's License Information	#83621	#82325	#69991
Bidder Qualification Statement	✓	✓	✓
General Provisions & Byrd Anti-Lobbying Certification	✓	✓	✓
E-Verify Affidavit	✓	✓	✓
Anti-Collusion Affidavit	✓	✓	✓
Bid Signed	✓	✓	✓
Receipt of Addenda	✓	✓	✓
Total Base Bid	\$1,013,800.87	\$1,334,960.00	\$1,370,991.24
Add Alternates	\$181,289.23	\$28,500.00	\$8,516.50
Total Base Bid + Alternates	\$1,195,090.10	\$1,363,460.00	\$1,379,507.74

This is to certify that the bids tabulated herein were publicly opened and read aloud at 11:00 AM on the 1st day of April 2026 at Mills River Town Hall, located at 124 Town Center Drive, Mills River, NC.



This item has been digitally signed and sealed by Ian Spurlock, PE on the date shown next to the signature.

Signature must be verified on any electronic copies.

DETAILED BID TABULATION



PROJECT: Northern Loop Damage Repairs
PROJECT #: 675056.0000.0000
BID DATE: April 1, 2026
BID TIME: 11:00 AM
LOCATION: Town of Mills River Town Hall / Microsoft Teams

Item	Description	Quantity	Units	Lawing & Son Site Contractor		Carolina Cleaning & Restoration		Bradley & Conner Grading Contractors Inc	
				Unit Cost	Extended Cost	Unit Cost	Extended Cost	Unit Cost	Extended Cost
1	Mobilization (3% Maximum)	1	EA	\$ 20,321.58	\$ 20,321.58	\$ 38,800.00	\$ 38,800.00	\$ 39,000.00	\$ 39,000.00
2	FEMA DI 1487553 – Erosion and Sediment Control	1	EA	\$ 18,120.00	\$ 18,120.00	\$ 108,000.00	\$ 108,000.00	\$ 157,139.94	\$ 157,139.94
3	FEMA DI 1487553 – Site Security & Safety	1	EA	\$ 16,800.00	\$ 16,800.00	\$ 7,000.00	\$ 7,000.00	\$ 5,329.00	\$ 5,329.00
4	FEMA DI 1487553 - Incidental Vegetative Debris Removal	100	Tons	\$ 137.74	\$ 13,774.00	\$ 125.00	\$ 12,500.00	\$ 135.00	\$ 13,500.00
5	FEMA DI 1487553 - Incidental Sediment Removal	16,035	CY	\$ 32.58	\$ 522,420.30	\$ 25.00	\$ 400,875.00	\$ 24.60	\$ 394,461.00
FEMA Damage ID 1487553 – Site 1									
6	FEMA Site 1.a – Grading	0.8	AC	\$ 20,773.00	\$ 16,618.40	\$ 8,500.00	\$ 6,800.00	\$ 25,000.00	\$ 20,000.00
7	FEMA Site 1 - Seeding and Stabilization	0.8	AC	\$ 3,017.94	\$ 2,414.35	\$ 3,500.00	\$ 2,800.00	\$ 16,700.00	\$ 13,360.00
8	FEMA Site 1.b – Replacement Split Rail Wooden Fence	165	LF	\$ 43.39	\$ 7,159.35	\$ 18.00	\$ 2,970.00	\$ 26.98	\$ 4,451.70
9	FEMA Site 1.c – Native Bank Fill	3.5	CY	\$ 1,042.35	\$ 3,648.23	\$ 200.00	\$ 700.00	\$ 25.00	\$ 87.50
10	FEMA Site 1.d – 3” DBH Holly Trees	5	EA	\$ 554.82	\$ 2,774.10	\$ 1,895.00	\$ 9,475.00	\$ 718.75	\$ 3,593.75
11	FEMA Site 1.e – 3.5” DBH River Birch Trees	5	EA	\$ 474.68	\$ 2,373.40	\$ 2,000.00	\$ 10,000.00	\$ 725.00	\$ 3,625.00
12	FEMA Site 1.f – Replacement Metal Bench	1	EA	\$ 2,097.43	\$ 2,097.43	\$ 8,000.00	\$ 8,000.00	\$ 2,500.00	\$ 2,500.00
FEMA Damage ID 1487553 – Site 2									
13	FEMA Site 1.G – Picnic Table Slab Repair	1	EA	\$ 616.46	\$ 616.46	\$ 2,800.00	\$ 2,800.00	\$ 1,300.00	\$ 1,300.00
14	FEMA Site 1.G – Replace Wooden Picnic Table	1	EA	\$ 224.99	\$ 224.99	\$ 3,000.00	\$ 3,000.00	\$ 1,500.00	\$ 1,500.00
15	FEMA Site 4 – Grading	0.25	AC	\$ 20,772.82	\$ 5,193.21	\$ 8,500.00	\$ 2,125.00	\$ 25,000.00	\$ 6,250.00
16	FEMA Site 4 - Seeding and Stabilization	0.25	AC	\$ 3,017.94	\$ 754.49	\$ 3,500.00	\$ 875.00	\$ 16,700.00	\$ 4,175.00
17	FEMA Site 2.a – Replace ABC Stone Walkway	400	SF	\$ 15.96	\$ 6,384.00	\$ 10.00	\$ 4,000.00	\$ 4.60	\$ 1,840.00
18	TRC DI 2999A0DF – Wooden Bench Replacement	1	EA	\$ 362.27	\$ 362.27	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00
19	FEMA Site 7 – Swing Slab Repair	1	EA	\$ 616.46	\$ 616.46	\$ 6,500.00	\$ 6,500.00	\$ 800.00	\$ 800.00
20	FEMA Site 6.a – Stormwater Conveyance Swale	35	LF	\$ 20.48	\$ 1,024.02	\$ 100.00	\$ 3,500.00	\$ 22.86	\$ 800.10
21	FEMA Site 6.a – Stormwater Conveyance Swale Riprap and Geotextile Underlayment	50	Tons	\$ 184.80	\$ 9,240.00	\$ 300.00	\$ 15,000.00	\$ 79.50	\$ 3,975.00
FEMA Damage ID 1487553 – Site 3									
22	FEMA Site 5.a – Native Bank Fill	30	CY	\$ 104.23	\$ 3,126.90	\$ 200.00	\$ 6,000.00	\$ 25.00	\$ 750.00
23	FEMA Site 8 - Grading	0.15	AC	\$ 21,093.98	\$ 3,164.10	\$ 10,000.00	\$ 1,500.00	\$ 25,000.00	\$ 3,750.00
24	FEMA Site 8 - Seeding and Stabilization	0.15	AC	\$ 2,833.58	\$ 425.04	\$ 5,000.00	\$ 750.00	\$ 16,700.00	\$ 2,505.00

DETAILED BID TABULATION



PROJECT: Northern Loop Damage Repairs
PROJECT #: 675056.0000.0000
BID DATE: April 1, 2026
BID TIME: 11:00 AM
LOCATION: Town of Mills River Town Hall / Microsoft Teams

Item	Description	Quantity	Units	Lawing & Son Site Contractor		Carolina Cleaning & Restoration		Bradley & Conner Grading Contractors Inc	
				Unit Cost	Extended Cost	Unit Cost	Extended Cost	Unit Cost	Extended Cost
25	TRC DI D11128908 – Sign Repairs & Cleaning	1	EA	\$ 2,465.86	\$ 2,465.86	\$ 7,000.00	\$ 7,000.00	\$ 7,357.00	\$ 7,357.00
FEMA Damage ID 1487553 – Site 4 – Sheet C3.8									
26	FEMA Site 8 - Grading	0.6	AC	\$ 21,093.98	\$ 12,656.39	\$ 10,000.00	\$ 6,000.00	\$ 25,000.00	\$ 15,000.00
27	FEMA Site 8 - Seeding and Stabilization	0.6	AC	\$ 3,017.94	\$ 1,810.76	\$ 5,000.00	\$ 3,000.00	\$ 16,700.00	\$ 10,020.00
FEMA Damage ID 1487547 – Site 4									
28	FEMA Site 1 – Culvert 23 – Erosion Control	1	EA	\$ 85,983.52	\$ 85,983.52	\$ 105,000.00	\$ 105,000.00	\$ 687.50	\$ 687.50
29	FEMA Site 1 – Culvert 23 – Demolish 15” CMP	37	LF	\$ 15.49	\$ 573.13	\$ 100.00	\$ 3,700.00	\$ 25.00	\$ 925.00
30	FEMA Site 1 – Culvert 23 – Install 15” CMP	37	LF	\$ 238.64	\$ 8,829.68	\$ 320.00	\$ 11,840.00	\$ 75.00	\$ 2,775.00
31	FEMA Site 1 – Culvert 23 – Regrade Upstream Ditch	200	LF	\$ 4.72	\$ 944.00	\$ 80.00	\$ 16,000.00	\$ 11.75	\$ 2,350.00
32	FEMA Site 2 – Selective Demolish Gravel Parking Lot & Drive	800	SY	\$ 17.15	\$ 13,720.00	\$ 118.75	\$ 95,000.00	\$ 2.26	\$ 1,808.00
33	FEMA Site 2 – Replace Gravel Parking Lot & Drive	800	SY	\$ 11.38	\$ 9,104.00	\$ 195.00	\$ 156,000.00	\$ 9.21	\$ 7,368.00
34	FEMA Site 3 – Replace Wood Post & Cabling	5	EA	\$ 1,229.09	\$ 6,145.45	\$ 1,000.00	\$ 5,000.00	\$ 101.55	\$ 507.75
FEMA Damage ID 1487553 – Site 5									
35	FEMA Site 8 – Grading of Wildlife Meadow Area	13	AC	\$ 5,022.59	\$ 65,293.67	\$ 10,000.00	\$ 130,000.00	\$ 15,000.00	\$ 195,000.00
36	FEMA Site 2.b – Grading of Multipurpose Sports Field	5	AC	\$ 10,719.60	\$ 53,598.00	\$ 10,000.00	\$ 50,000.00	\$ 15,000.00	\$ 75,000.00
37	FEMA Site 2.a – Asphalt Walking Track Crack Repair	150	LF	\$ 8.22	\$ 1,233.00	\$ 7.00	\$ 1,050.00	\$ 20.00	\$ 3,000.00
38	FEMA Site 8 – Wildlife Meadow Seeding & Stabilization	13	AC	\$ 5,900.05	\$ 76,700.65	\$ 4,800.00	\$ 62,400.00	\$ 21,500.00	\$ 279,500.00
39	FEMA Site 2.b – Multipurpose Sports Field Seeding & Stabilization	5	AC	\$ 3,017.94	\$ 15,089.70	\$ 4,800.00	\$ 24,000.00	\$ 16,700.00	\$ 83,500.00
				\$ 1,013,800.87		\$ 1,334,960.00		\$ 1,370,991.24	
				Cost Included on Bid Form	\$ 1,013,800.87	\$ 1,334,960.00	\$ 1,370,991.24		
				CONTRACT AMOUNT BASED ON UNIT BID ITEMS	\$ 1,013,800.87	\$ 1,334,960.00	\$ 1,370,991.24		

NOTE: Values indicated in RED above have been corrected.

ADD ALTERNATES



PROJECT: Northern Loop Damage Repairs
PROJECT #: 675056.0000.0000
BID DATE: April 1, 2026
BID TIME: 11:00 AM
LOCATION: Town of Mills River Town Hall / Microsoft Teams

Item	Description	Estimated Quantity	Unit	Lawing & Son Site Contractor		Carolina Cleaning & Restoration		Bradley & Conner Grading Contractors Inc	
				Unit Cost	Estimated Cost	Unit Cost	Estimated Cost	Unit Cost	Estimated Cost
1	Site 2- Metal Picnic Table Replacement	1	EA	\$ 1,527.73	\$ 1,527.73	\$ 6,000.00	\$ 6,000.00	\$ 2,500.00	\$ 2,500.00
2	Site 4 - Full Replacement of Wood Posts & Cabling	450	LF	\$ 399.47	\$ 179,761.50	\$ 50.00	\$ 22,500.00	\$ 13.37	\$ 6,016.50
					\$ 181,289.23		\$ 28,500.00		\$ 8,516.50

STAFF REPORT

Town Council, Thursday, April 9, 2026

Title: **Budget Amendments – Grant Project Ordinance - FEMA**

Speaker: Julie Osteen, Finance Director

From: Administration

Background

With the completion of the Damaged Inventory for the Town of Mills River, additional funds will need to be added to the project ordinance to cover the costs of Hurricane Helene damage identified.

On October 23, 2025, Council requested that Town staff pursue a reimbursement strategy for the N. Loop, river access, meadow, and related projects. As a result, TRC released the North Loop Repairs to bid. The lowest responsive responsible bidder was selected.

Discussion

As part of the awarding of the bid, Council will need to approve an amendment to the FEMA Grant Project Ordinance to allocate funds for the repairs.

Recommendation

Adopt the amendment to the Grant Project Ordinance 2026-03 to allocate funds for the North Loop Repairs.

Fiscal Impact

With Council direction to pursue a reimbursement strategy for the North Loop Repairs, the attached budget amendment assumes that 75% of project costs will be funded through FEMA Public Assistance, with the remaining balance to be covered by General Fund balance. As all repair costs are expected to be eligible for FEMA reimbursement, staff will present a subsequent budget amendment to reflect any additional FEMA Public Assistance funds received as reimbursements are processed.

Strategic Planning Goals Alignment

Goal 4: Foster recreational opportunities for all ages and abilities

Attachments - Ordinance 2026-03

AN ORDINANCE TO AMEND THE GRANT PROJECT ORDINANCE FOR HELENE DISASTER RECOVERY

BE IT ORDAINED by the Town Council for the Town of Mills River, North Carolina that, in Council assemble that pursuant to section 13.2 of chapter 159 of the general statutes of North Carolina, the following grant project ordinance is hereby amended:

SECTION 1: PURPOSE

This ordinance is to establish a budget for projects related to the Helene Hurricane Disaster Response (FEMA Disaster 4827) that will be reimbursed by the Federal Emergency Management Agency (FEMA) Public Assistance Program. Through its Public Assistance Program (PA), FEMA provides Federal grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities. Expenses may be eligible for FEMA reimbursement in the following categories:

Emergency Work

Category A: Debris Removal -- Expenses related to clearing debris from public property, including roads, parks, and other infrastructure.

Category B: Emergency Protective Measures -- Costs for actions taken to protect public health and safety, such as: search and rescue operations; sheltering and evacuation; and medical care and emergency response.

Permanent Work

Category C: Roads and Bridges -- Repairs and restoration of transportation infrastructure, including highways, streets, and bridges.

Category D: Water Control Facilities -- Restoration and repair of drainage systems, levees, and other flood control measures.

Category E: Buildings and Equipment -- Repairs or replacements of public buildings, such as schools, community centers, and related equipment.

Category F: Utilities - Repair and restoration of essential utility systems, such as power grids, water treatment plants, and communication systems.

Category G: Parks, Recreational Facilities, and Other -- Repair or replacement of parks, recreational areas, and public spaces.

Administrative Work

Category Z: Management Costs -- Administrative costs related to the overall management of disaster response and recovery efforts, which are capped at a certain percentage of eligible project costs.

SECTION 2: ESTIMATED REVENUES

The following revenues are amended to be available to fund Helene disaster recovery costs as follows:

Source	Amount	As Amended
FEMA PA Reimbursements	\$ 300,500	\$ 1,060,850
NC DST Disaster Cashflow Loans	222,346	222,346
FEMA Debris Henderson County Lease	102,375	102,375
NCLM Insurance Proceeds	13,300	13,300
Transfer from General Fund	45,000	298,450
Total Revenues	\$ 683,521	\$ 1,697,321

SECTION 3: APPROPRIATIONS

The following amounts are amended for Helene disaster recovery costs as follows:

Category	FEMA PA Category	Amount	As Amended
Debris Removal	Category A	\$ 1,950	\$ 1,950
Emergency Protective Services	Category B	11,500	11,500
Road Repairs	Category C	91,540	91,540
Water Control Facilities	Category D	10,100	10,100
Public Buildings & Equipment	Category E	30,860	30,860
Public Utilities (Sewer)	Category F	10,860	10,860
Park, Recreational Facilities	Category G	245,365	1,259,165
Administrative Costs	Category Z	55,000	55,000
Contingency		4,000	4,000
Cashflow Loan Repayment		222,346	222,346
		\$ 683,521	\$ 1,697,321

SECTION 4: FUND SOURCE

This project shall be accounted for in a Special Revenue Fund as required for grant project ordinances under G.S. 159-13.2.

SECTION 5: FINANCE OFFICER DUTIES

The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements. The Finance Officer must report the financial status of the project to the governing board on a quarterly basis.

SECTION 6: ADMINISTRATION

Copies of the amended grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to Town Council.

Amended and signed, effective April 9, 2026.

Shanon Gonce
Mayor

Attest:

Patty Brown, CMC, NCMC
Town Clerk

STAFF REPORT

Town Council, Thursday, April 9, 2026

Title: **Revised Nuisance Ordinance Consideration**

Speakers: Michael Malecek, Planning Director

Background

In September 2025, Town Council informally discussed the nuisance ordinance. On October 2, 2025 Council unanimously requested the Planning Board review the Town's current nuisance ordinance for potential updates and changes. The Planning Board conducted an in-depth review of the nuisance ordinance at the October 7, November 4, and December 2, 2025 meetings and provided guidance to staff on recommended changes.

Discussion

At the December 11, 2025 Town Council meeting, Council directed staff to bring the nuisance ordinance item forward on the January 8, 2026 business meeting agenda. At this meeting, Council had high-level discussions on nuisance enforcement and potential ordinance changes that continued into the February 12, 2026 meeting. Council members and staff shared nuisance ordinance feedback with the Town Manager, which was incorporated into draft ordinance language presented to Town Council at the March 26, 2026 meeting. Minor revisions were made as a result of additional feedback from that meeting.

Recommendation

None. Staff is presenting the revised nuisance ordinance for Council consideration.

Strategic Plan Alignment

Goal 5: Enhance community development.

Goal 6: Uphold excellence in community safety.

Attachments

- A. Revised Nuisance Ordinance

CHAPTER 152: NUISANCES

General Provisions

- 152.01 Purpose and objectives
- 152.02 Jurisdiction and exception
- 152.03 Definitions
- 152.04 Prohibitions
- 152.05 Outdoor storage
- 152.06 Outdoor storage of junked motor vehicles
- 152.07 Declared state of emergency
- 152.08 Vehicle restoration permit
- 152.09 Nuisance complaints

Noise Control

- 152.21 Establishment of noise ordinance
- 152.22 Prohibited noises
- 152.23 Exceptions
- 152.24 Permits for amplified sound
- 152.25 Noise complaints
- 152.26 Warnings and violations

Administration

- 152.91 Code enforcement officer
- 152.92 General administration
- 152.93 Access to premises and records
- 152.94 Investigation, notice, and response to a public nuisance
- 152.95 Appeals
- 152.99 Violations, penalties, costs, and reimbursements

GENERAL PROVISIONS

§ 152.01 PURPOSE AND OBJECTIVES.

(A) *Purpose.* This Chapter is enacted to protect the health, safety, and general welfare of the people of the Town of Mills River pursuant to powers granted under G.S. 160A-175, G.S. 160A-193, G.S. 160A-303, G.S. 160A-303.1, G.S. 160A-303.2; the Mills River Town Code; subsequent recodifications and/or amendments; and other applicable ordinances as may be adopted in the future.

(B) *Objectives.* The principal objectives of this chapter are:

(1) To prevent injury and illness to occupants of property and the public and to remove public nuisances.

(2) To provide town-wide standards for the abatement of public nuisances, including but not limited to solid waste, junked motor vehicles, and abandoned manufactured homes.

(3) To establish responsibility of involved parties and ensure that people are not unnecessarily exposed to dangers of public nuisances.

(4) To ensure proper actions are taken to abate public nuisances.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-10, passed 5-13-2021; Am. Ord. ####-##, passed ##-##-####)

§ 152.02 JURISDICTION AND EXCEPTION.

(A) *Jurisdiction.* This chapter shall apply to all the land within the corporate limits of the Town of Mills River.

(B) *Exception.* This chapter shall not regulate property being actively used as a bona-fide farm, as defined in this chapter, including facilities for the sale of agricultural products from the premises where produced.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. ####-##, passed ##-##-####)

§ 152.03 DEFINITIONS.

(A) *Word interpretation.* Except as specifically defined herein, all words in this chapter have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used are defined as follows:

(1) Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include singular.

(2) The word SHALL is mandatory

(3) The word MAY is permissive

(4) The word Town shall mean the Town of Mills River, NC

(5) The word Town Council shall mean the Town Council of Mills River, North Carolina.

(6) The word Building includes the word Structure

(B) The following terms are defined for purposes of this chapter:

ABANDONED MANUFACTURED HOME. A manufactured home or mobile home that has not had legal power or was not properly connected to a permitted septic/sewer system and water supply in the most recent six (6) months, not to be interpreted to include a manufactured home stored or parked in accordance with a valid zoning compliance permit.

ABANDONED MOTOR VEHICLE. As defined in G.S. 160A-303, an abandoned motor vehicle is one that:

(1) Is left upon a public street, public right-of-way, or highway in violation of a law or ordinance prohibiting parking; or

(2) Is left on a public street, public right-of-way, or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public; or

(3) Is left on property owned or operated by the Town for longer than 24 hours; or

ABATEMENT. The proper removal, repair, and/or containment of substances or materials hazardous to human health and/or the environment. Abatement is part of remediation.

ADMINISTRATIVE SEARCH WARRANT. An order signed by a court of competent jurisdiction authorizing a Town official to enter land or a structure for the purposes of inspection for compliance with the requirements of this chapter.

AMPLIFIED SOUND. Using or operating a loudspeaker or other sound amplification device for the purpose of commercial advertising, giving instructions, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property.

BONA-FIDE FARM. Any tract or tracts of land used for farm purposes as defined in G.S. 160D-903, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona-fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona-fide farm purposes: 1) A farm sales tax exemption certificate issued by the NC Department of Revenue; 2) A copy of the property tax listing showing the property is eligible for participation in the present use value tax deferral program pursuant to G.S. 105-277.3; 3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; 4) A forest management plan; or 5) A Farm Service Agency (FSA) farm identification number.

BUILDING. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels. Two buildings connected by a common roof shall be considered as one building, provided that the width of the connecting roof shall be at least 20% of the principal building width, but in no case less than six feet in width. The connection of two buildings by means of an open porch, breeze way or passageway without a roof, or with a roof less than six feet in width, shall not be deemed to make them one building.

CITATION. A formal notice to a person that he or she is charged with a violation of this chapter, and that a civil penalty is due.

CIVIL PENALTY. A fine or other financial penalty imposed by a court, the Town, or another governmental entity as restitution for violation of this ordinance or other wrongdoing.

CODE ENFORCEMENT OFFICER. A person designated by the Planning Director or Town Manager as an authorized delegate to enforce the provisions of this chapter.

COMPLAINT. A formal request or notification made to the Planning Department that specifies the alleged code violations and general location, submitted either anonymously or with contact information for the complainant, which becomes a public record.

COMPLAINANT. A person, persons, organization, corporation, or other entity that submits a formal complaint to the Planning Department or responsible party.

DEBRIS. The remains of something broken down or destroyed that can consist of rubble, wreckage, and/or discarded garbage, refuse, trash.

DECLARATION. A formal written statement authorized by the Planning Department or other responsible authority that officially declares a property in violation of this chapter.

DISTURBING NOISE. Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area. In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: whether the noise has been enhanced in volume or range by any type of electronic or mechanical means.

JUNK. Any discarded or abandoned metal, rope, rags, batteries, appliances, paper or rubber; discarded, dismantled, abandoned, or wrecked automobiles or other vehicles or parts thereof; dismantled or abandoned mobile/manufactured homes or RV's or travel trailers or parts thereof; discarded, dismantled or wrecked motorized or non-motorized equipment or parts thereof; discarded or abandoned iron, steel or other scrapped material; or any other materials, items or equipment similar to those listed herein.

JUNKED MOTOR VEHICLE. As defined in G.S. 160A-303.2 and G.S. 160A-303, a junked motor vehicle is one that:

- (1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five (5) years old and worth less than \$500.00; or

(4) Does not display a current license plate.

MANUFACTURED HOME. A single-family residential dwelling built in accordance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (which became effective June 15, 1976), as amended. For purposes of this chapter, however, the term also includes mobile homes.

MOTOR VEHICLE. A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

NOTICE OF VIOLATION. A formal notice indicating violation of this Ordinance.

NUISANCE VEHICLE. A vehicle on public or private property that is determined to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

(1) A breeding ground for mosquitos, other insects, mice, rats, or other vermin; or

(2) A point of heavy growth of weeds or other noxious vegetation that may encourage a vermin infestation; or

(3) A point of collection of pools or ponds of water; or

(4) A point of concentration of quantities of gasoline, oil or other flammable or hazardous materials as evidenced by odor or leaching into / staining of the ground; or

(5) One which has areas of confinement which cannot be operated from the inside, such as open trunks, hoods, etc.; or

(6) Located or situated to the extent of posing a risk of falling or turning over; or

(7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One that has sharp parts thereon which are jagged or contain sharp edges of metal or glass, which could cause injury if accessible to the public.

OCCUPANT. Any person who occupies real property, whether with or without any right, title or interest in the property, and any person in possession or charge of such property, in the event the owner resides or is located elsewhere.

OPEN SPACE. Open space means areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports and porches, and any other exterior portion of properties ordinarily exposed to the outside or public view, including front, side and rear yards.

OUTDOOR STORAGE. The outdoor holding of items, goods, merchandise, supplies, material, machinery, equipment, vehicles, or other items for potential future use, including any accumulation of junk, trash, or debris located outside that accumulates in any open space that may be visible from adjacent properties or an adjacent street.

OWNER. Any person, persons, organization, or corporation that owns, in whole or in part, the land, structure, or other property, or is the purchaser of the property under contract for deed.

PERSONAL PROPERTY. All property other than that defined in the definitions of PROPERTY and REAL PROPERTY, REAL ESTATE AND LAND of this section that is subject to ownership.

PLANNING DEPARTMENT. The Town department responsible for enforcing this chapter.

PROPERTY. Publicly or privately owned real property including parcels of land, buildings, or structures.

PROPERTY AGENT. A person authorized by a property owner to act in transacting business matters or in managing the affairs of the subject property.

PUBLIC NUISANCE. Any activity or use of property or personal property or failure to act that adversely affects the public health, safety, and welfare, and shall include, but is not limited to, any condition which poses an immediate and direct hazard to human health if left unheeded due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections.

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary and mobile living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on and drawn by another vehicle. The units do not satisfy the dimensional requirements of a manufactured home.

REMEDIATION. The action of stopping or reversing conditions, uses, substances or materials hazardous to humans and/or the environment or otherwise creating a nuisance.

SOLID WASTE. Solid waste is any unwanted or discarded solid material that results from human activities, including residential, commercial, industrial, and institutional sources. Solid waste includes junk, trash, and debris.

TRASH. Discarded, unwanted, or accumulated solid waste materials, including garbage, that consists mainly of decaying or putrescible matter and can negatively impact public health and safety when uncontained.

UNREASONABLY LOUD NOISE. A level of noise that is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

VACANT LOT. Property that has no established permitted use and/or any building or structure erected on the property.

VEHICLE RESTORATION PERMIT. A permit that allows persons to actively restore an unlicensed and unregistered vehicle. Vehicles may be stored openly outside for the duration of the approved permit.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-10, passed 5-13-2021, Am. Ord ####-## ,passed ##-##-####)

§ 152.04 PROHIBITED NUISANCES.

The creation or maintenance of a public nuisance is prohibited. Without limiting the generality of the foregoing, the following are hereby expressly declared to be public nuisances:

(A) Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure or living unit, or discharging into a body of water.

(B) A publicly accessible and unsecured opening caused by an improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, or other similar publicly accessible conditions that could cause a person to fall and become injured.

(C) Failure to keep trash in an enclosed building or properly contained in a closed, insect and rodent proof container designed or reasonably adapted for such purpose.

(D) Significant outdoor storage of solid waste including junk, trash, or debris in which flies, mosquitoes, other disease-carrying insects, rodents, or other vermin can harbor or breed, subject to the provisions of §152.05.

(E) Junked motor vehicles stored outside, which may be in public view from adjacent properties or an adjacent street, without a current vehicle restoration permit and/or any abandoned manufactured home as defined, subject to the provisions of §152.06 and §152.07.

(F) Large breeding ground areas and significant infestations of mosquitoes, flies, fleas, cockroaches, lice, rats, mice, mosquito larvae, fly larvae, hookworm larvae or other insects, parasites or vermin in such a substantial manner that creates or contributes to a risk to public health and safety, if left unheeded.

(G) Use of an unpermitted recreational vehicle, temporary dwelling, or structure/accessory structure, as a permanent dwelling, defined as occupancy of a recreational vehicle or related unit for living quarters for more than two (2) weeks outside of a recreational vehicle park.

(H) Recreational vehicles, junked motor vehicles, or abandoned manufactured homes used to store solid waste within the vehicle or manufactured home interior.

(Ord. 2019-02, passed 10-12-2019; Am. Ord ####-## , passed ##-##-####)

§ 152.05 OUTDOOR STORAGE.

(A) Nonresidential Uses

(1) Outdoor storage by nonresidential uses in a front yard shall be limited to items that are designed and intended for permanent outdoor usage, retail display, and/or sale, shall not occupy more than one-third (1/3) of the front yard area, not be within 20 feet of the front property line, and not block or obstruct parking spaces or line of sight for an adjacent road.

(2) Outdoor storage of other items related to a business in all other areas shall conform to a maximum of one-third (1/3) of the side, or rear yard areas, shall not be within 15 feet of a property line, and not block or obstruct parking spaces or any line of sight for an adjacent road.

(3) Outdoor storage by a business is allowed, so long as it is reasonably related to the business, and the business is in compliance with other Town requirements. Use of land for outdoor storage of items not related to the business on the property is not permitted.

(4) Outdoor storage of solid waste, which is either in whole, or in part, wrecked, junked, deteriorated, worn out, dismantled, unusable, or inoperable shall only be allowed when completely enclosed within a building, or otherwise evenly placed, organized, and concealed by a solid opaque fence, all-weather covering, or other means so as not to be visible at the property line from abutting properties or from an adjacent street.

(5) Outdoor storage or accumulation of solid waste that poses a public health hazard such as to cause a fire hazard from combustible materials, accumulation of stagnant water, or infestation of mosquitoes or other disease carrying insects which are dangerous or prejudicial to the public health is prohibited.

(B) Residential Uses

(1) Outdoor storage of solid waste shall only be allowed on properties used for residential purposes if completely enclosed within a building, completely concealed by a solid opaque fence, or concealed by an all-weather covering so as not to be visible at the property line from abutting properties or an adjacent street.

(2) Outdoor storage or accumulation of solid waste that poses a public health hazard such as to cause a fire hazard, accumulation of stagnant water, or infestation of mosquitoes or other disease carrying insects which are dangerous or prejudicial to the public health is prohibited.

(C) Vacant Lots

(1) In no way shall solid waste be openly stored on a vacant lot as defined herein.

(D) Temporary Construction Sites

(1) The outdoor storage of solid waste on property where a construction project is actively in progress shall be permitted, provided that the project is authorized under a valid and lawfully issued zoning compliance permit, and the waste is not blown, scattered, or transferred to other adjacent properties due to lack of containment.

§ 152.06 OUTDOOR STORAGE OF JUNKED MOTOR VEHICLES

(A) Nonresidential Uses

(1) Outdoor storage of junked motor vehicles shall be permitted on the premises of a business operated in a lawful place and manner, if the vehicle(s) is necessary to the operation of the business.

(2) A junked motor vehicle shall not become a nuisance vehicle, as defined herein, unless stored in a lawful place and manner permitted by the Town.

(B) Residential Uses

(1) Each parcel of land occupied by a residential use within the Town may have one to three (1 – 3) junked motor vehicle(s) stored outside in the side or rear yard that are concealed from public view.

(2) The junked motor vehicle(s) shall be covered with a tarp, or other functional all-weather covering, or fully covered by a structure. A junked motor vehicle(s) shall not become a nuisance vehicle, as defined herein.

(3) If a residential property has more than three junked motor vehicles, the additional junked motor vehicles must be located in a garage, shop, accessory building, or other fully enclosed structure. This does not apply to any vehicle with a valid Vehicle Restoration Permit issued by the Town.

§ 152.07 VEHICLE RESTORATION PERMIT

(A) Persons storing any junked motor vehicle for more than thirty (30) days outside a fully enclosed structure for the purpose of restoration shall obtain a vehicle restoration permit from the Planning Department. The permit shall be placed in the vehicle in a location viewable from outside the vehicle.

(B) This permit shall allow for one restoration vehicle and up to one parts vehicle that must be compatible with the vehicle being restored.

(C) The permit allows for outdoor storage of the vehicle(s) for a period of up to six (6) months.

(D) A maximum of three six-month extensions may be granted upon request, provided substantial progress can be proven in the restoration of the vehicle at each extension interval. Progress will be measured by receipts for the purchase of parts or services or visible reconstruction or deconstruction.

(E) At no time shall the vehicle become a nuisance vehicle by collecting water to breed mosquitoes, losing fluid to contaminate the soil, or becoming a harborage for vermin.

(F) If restoration work is not complete upon the permit expiration date, the vehicle shall be removed or placed inside a fully enclosed building as required by this chapter.

(G) More than two (2) vehicle restoration permits shall not be issued to a single property for the purpose of evading the Town's nuisance ordinance standards applicable to the long-term outdoor storage of junked motor vehicles.

§ 152.08 DECLARED STATE OF EMERGENCY

(A) During a declared state of emergency due to a natural disaster, the Town Council may adopt a resolution to temporarily suspend enforcement of portions of this chapter.

§ 152.09 NUISANCE COMPLAINTS

(A) The Planning Department shall only investigate a potential public nuisance in response to receipt of a complaint or inquiry. Complaints may be submitted anonymously or may include the contact information for the complainant, which Town staff can use for follow-up. Any information contained in a complaint is considered a public record and may be disclosed to third parties.

(B) It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with the Planning Department in order to intimidate or harass any member of such department or any member of the public, or to otherwise hinder or interfere with any function of the Town. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

(Ord. 2019-02, passed 10-12-2019; Am. Ord #####-## , passed ##-##-####)

NOISE CONTROL

§ 152.21 ESTABLISHMENT OF NOISE ORDINANCE.

This subchapter shall be known as the "Noise Ordinance for the Town of Mills River."

(Ord. 2021-10, passed 5-13-2021)

§ 152.22 PROHIBITED NOISES.

(A) Disturbing noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

(B) Unreasonably loud noise, which is a level of noise that is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

(1) In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered:

- (a) Time of day;
- (b) Proximity to residential structures;
- (c) Whether the noise is recurrent, intermittent, or constant;

(d) The volume and intensity;

(e) Whether the noise has been enhanced in volume or range by any type of mechanical means;

(f) The nature and zoning of the area;

(g) Whether the noise is related to the normal operation of a business or other labor activity, or is the result of some use for individual purposes;

(h) Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(C) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 9:00 p.m. and 7:00 a.m. Sunday through Thursday and 10:00 p.m. and 7:00 a.m. Friday and Saturday, so as to annoy or disturb the quiet, comfort or repose of any persons in any dwelling, hotel or other type of residence.

(D) Using or operating a loudspeaker or other sound amplification device or system for the purpose of commercial advertising, giving instructions, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property, between the hours of 9:00 p.m. and 7:00 a.m. the following day on Sunday through Thursday and between the hours of 10:00 p.m. and 7:00 a.m. the following day on Friday and Saturday is hereby prohibited.

(Ord. 2021-10, passed 5-13-2021)

§ 152.23 EXCEPTIONS.

(A) The following are exempt from the provisions of this subchapter:

(1) Any noise resulting from activities of a temporary duration permitted by law, and for which a permit therefor has been granted by the Town in accordance with the Mills River Town Code. Regulations of noises emitting from operations under a permit shall be according to the conditions and limits stated on the permit.

(2) Unamplified sound at street fairs, parades, or other special events permitted by the Town.

(3) Amplified sound emanating from religious institutions.

(B) This chapter shall not regulate property being actively used as a bona fide farm which is any tract or tracts of land used for farm purposes as defined in G.S. 160D-903, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1. (Ord. 2021-10, passed 5-13-2021)

§ 152.24 PERMITS FOR AMPLIFIED SOUND.

(A) Before a person or group of persons may produce or cause to be produced amplified sound, as defined in § 152.03, a permit must be secured from the Town of Mills River.

(B) Any person or group of persons desiring a permit shall apply as provided herein and shall provide the minimum requirements listed below:

- (1) Property address;
- (2) Business name;
- (3) Property owner name and signature;
- (4) Responsible party (general manager, site manager, or similar);
- (5) Contact information for all parties.

(C) All applications shall be submitted to the Town of Mills River prior to producing amplified sound. Failure to comply with this requirement shall be grounds for denying the permit and/or enforcement action.

(D) Permit holders shall agree to cooperate with the Henderson County Sheriff's Department and the Town of Mills River in enforcing the noise ordinance by having signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting in enforcing the noise control ordinance. Failure of the permittee or designees to be present or to assist the Henderson County Sheriff's Department and the Town of Mills River in compliance of this subchapter will result in revocation of said permit.

(Ord. 2021-10, passed 5-13-2021)

§ 152.25 NOISE COMPLAINTS.

(A) Any person having reasonable grounds for believing any provision of this subchapter is being violated may make a report thereof to the Henderson County Sheriff's Department or the Town of Mills River, which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating deputy or code enforcement officer has the authority to cause a written complaint to be made and may issue a citation for a civil penalty, and may obtain other enforcement measure as allowed in this chapter.

(B) It shall be unlawful for any person to file a false report or to provide false information to any enforcement official involving any investigation of any reported violation of this subchapter. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

(C) It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with law enforcement in order to intimidate or harass any member of such department or any animal owner, or to otherwise hinder or interfere with any function of the department of animal control. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

(Ord. 2021-10, passed 5-13-2021)

§ 152.26 WARNINGS AND VIOLATIONS.

(A) Any producer of prohibited noise as defined in this subchapter that has been determined to be non-cooperative pursuant to this subchapter shall be subject to enhanced civil penalties.

(B) Violations shall result in the following:

(1) Upon a first violation, enforcing authority shall issue a warning.

(2) A second violation shall result in a fine not more than \$500.

(3) A third violation shall result in a fine not more than \$1,000.

(4) Subsequent and continued violations will result in a penalty of \$1,000 per day of noncompliance.

(Ord. 2021-10, passed 5-13-2021)

ADMINISTRATION AND ENFORCEMENT

§ 152.91 CODE ENFORCEMENT OFFICER

(A) The Code Enforcement Officer is designated by the Planning Department Director or Town Manager as the authorized delegate responsible for enforcing the provisions of this chapter.

(Ord. #####-##, passed ##-##-####)

§ 152.92 GENERAL ADMINISTRATION

Where there is a violation of any provision of this chapter, the Town, in its discretion, may require any appropriate action as described in this chapter.

(A) Town ordinances. Except where otherwise specified, this chapter is subject to all provisions of the Mills River Town Code. The Planning Department shall be the department responsible for administration and enforcement of this chapter.

(B) Declaration as a public nuisance.

(1) It shall be the duty of the Planning Department acting by and through its authorized delegate to determine whether or not a prohibited public nuisance exists. The department shall act by and through complaints only, as defined herein.

(2) For purposes of emergency response and notification to applicable authorities and posting for the public, the Code Enforcement Officer may determine that a structure, property, or portion of a property constitutes an immediate environmental health nuisance pursuant to Chapter 130A and the North Carolina General Statutes and North Carolina Administrative Code. In the event the Code Enforcement Officer makes this determination, the nuisance will be referred to the Henderson County Department of Public Health and/or

the North Carolina Department of Environmental Quality for administration and abatement.

(C) Modifications to or dismissal of the public nuisance declaration and civil penalties.

(1) The Code Enforcement Officer may modify conditions of the declaration or dismiss the declaration of a public nuisance and any associated civil penalties.

(2) Such modifications or dismissal shall occur only after the Code Enforcement Officer has confirmed the violation no longer exists or if there has been substantial progress and continuing improvement towards abating the nuisance.

(a) Once the property becomes in compliance with the written notice(s), or substantial improvements were made to remove the violations from the property, a Letter of Compliance will be issued.

(b) The property must be maintained in its condition to remain in compliance. Since the property owner was made aware of the nuisance prohibitions herein, no Second Notice of Violation will be issued for similar violations in the future. A Final Notice of Violation and Civil Citation will be issued immediately after the First Notice of Violation for future offenses on the same property already subject to a violation.

(3) The Code Enforcement Officer will base their criteria for determining levels of nuisance on the best health and safety information available at the time of the declaration and cannot be held liable for future discoveries.

(4) For good cause shown, the owner or occupant may request authorization from the Code Enforcement Officer for an extension of time to complete abatement activities. An extension may be granted if the extension does not increase the risk to public health or safety and is deemed appropriate.

(5) Extensions may not be granted unless the owner or occupant shows substantial progress and continuing improvement toward abating the nuisance. The first compliance extension shall be for a period of no longer than forty-five (45) days from the date of the compliance due date identified in the First Notice of Violation.

(6) Additional compliance extensions shall be at the discretion of the Code Enforcement Officer and shall only be considered if there has been substantial progress and continuing improvement towards abating the nuisance.

(a) These additional extensions shall be for periods of no longer than 30 days from the date of the compliance due date declared in the subsequently issued Notice of Violation.

(b) The determination of substantial progress and continuing improvement towards abatement of declared public nuisances shall be at the discretion of the Code Enforcement Officer.

152.93 ACCESS TO PERMISES AND RECORDS

(A) Access to premises and records. The owner or occupant shall, upon the request of the Town and after proper identification, permit access to all parts of the site or structure where a nuisance has been declared as often as reasonably necessary, and at any reasonable time for the purposes of inspection, remediation and abatement, and shall exhibit and allow copying of any and all records necessary to ascertain compliance with this chapter. If the occupant will not permit entry upon the property, the Code Enforcement Officer shall complete the requirements of an administrative search warrant in order to investigate the complaint.

(B) Interference. No person shall in any way interfere with or hinder the Code Enforcement Officer in the performance of their duties or refuse access to gather information necessary to ascertain compliance with this chapter or to investigate a complaint.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-10, passed 5-13-2021)

§ 152.94 INVESTIGATION, NOTICE, AND RESPONSE TO A PUBLIC NUISANCE.

(A) Owner notification. Upon declaration of a public nuisance, the Code Enforcement Officer shall issue a First Notice of Violation with their determination and orders to abate the nuisance to the property owner, occupant, and property agent, if known and applicable to the situation.

(B) The Code Enforcement Officer shall provide the property owner, occupant, or tenant with informal written notice of the prohibited nuisance prior to issuing the first formal Notice of Violation, allowing adequate time to be notified and to prepare to address the violation, or appeal staff's determination. The informal written notice may take the form of a door hanger or courtesy warning letter.

(1) The informal written notice shall have a compliance due date not to exceed fifteen (15) days from the date the informal written notice is issued.

(2) The informal written notice shall be served in person, by regular mail, or by an officer authorized to serve the notice, and shall contain the following:

(a) Property location by street address, parcel identification number, or other property description.

(b) Information identifying the nature of the public nuisance on the property and citation of the section(s) of the ordinance determined in violation.

(c) A compliance due date not to exceed fifteen (15) days from the date the notice is issued.

(d) The corrective action(s) required for abatement or remediation of the public nuisance.

(3) Informal notice shall not be required for public nuisances where the Code Enforcement Officer determines immediate abatement is necessary to protect public health and safety due to the hazardous nature of the violation.

(4) It is in the best interest of the Town and the public to have community-focused code enforcement, where violations may be remedied through informal means and communication before resulting in a formal notice of violation that could lead to civil penalties. The Code Enforcement Officer may attempt to contact the responsible parties informally to inform them of the violation and gain compliance with this ordinance, if reasonable and appropriate for the situation, and if there is no immediate threat to public health and safety.

(C) A recipient of any formal Notice of Violation must take all action required within the time period stated in the notice. This notice shall be served in person, by regular mail, or by an officer authorized to serve the notice and contain the following:

(1) Property location by street address, parcel identification number, or other property description.

(2) Information identifying the nature of the public nuisance on the property and citation of the section(s) of the ordinance determined in violation.

(3) A summary of the owner's and occupant's responsibilities under this chapter.

(4) The corrective action(s) required for abatement or remediation of the public nuisance.

(5) A date for completion of the abatement not to exceed 30 days following the receipt of the formal notice unless a shorter time is required due to the Code Enforcement Officer's further determination that immediate abatement is necessary to protect public health and safety due to the hazardous nature of the violation. A First Notice of Violation letter may have up to a 45-day compliance period, while all subsequent formal Notice of Violation letters shall have up to a 30-day compliance period to address the prohibited nuisances.

(6) Information regarding a right of appeal as provided in §152.94 of this chapter and that, unless the threat to public is abated or removed in accordance with the terms of the notice, the Planning Department will have the public nuisance abated or removed at the expense of the owner under the provisions of this chapter and/or other applicable state or local law.

(D) Unknown or absent property owner. In the event the owner of the property is unknown or absent and has no known representative upon whom the notice can be served, the Code Enforcement Officer shall post a written or printed notice on the property stating that, unless the threat to the public is abated or removed within thirty (30) days of the date of posting, the Planning Department will have the public nuisance abated or removed at the expense of the owner under the provisions of this chapter and/or other applicable state or local law.

(E) Public notification. The Code Enforcement Officer shall provide information in writing about the public nuisance declaration and potential hazard(s) to the following persons as applicable and appropriate:

(1) Child Protective Services Division of the Henderson County Department of Social Services in situations of potential child maltreatment or endangerment.

(2) Adult Protective Services Division of the Henderson County Department of Social Services in situations of potential vulnerable adult maltreatment or endangerment.

(3) Neighbors in close proximity likely to be affected by the conditions found at the site.

(4) Local law enforcement officers.

(5) Henderson County Environmental (Public) Health.

(6) Other state and local authorities that may have public or environmental protection responsibilities.

(F) Warning sign. The Code Enforcement Officer shall post a warning sign when deemed necessary to further protect the public health and safety. The warning sign shall be posted on the entrance(s) of the structure or property and contain information sufficient to alert visitors or returning occupants to the site that it may be dangerous to enter, that entry is prohibited unless authorized by the Planning Department or law enforcement department. Any person other than the Planning Department or designated agent that removes a warning sign shall be in violation of this chapter.

(G) Abating a public nuisance. If the owner, property agent or occupant fails or neglects to comply with the requirements in the notice provided under division (C) of this section, then the Planning Department shall abate or remediate the public nuisance described in the notice. The Town will recoup such costs as necessary to abate the public nuisance as provided in §152.99 of this chapter.

(H) Vacating the public nuisance order. Upon verification and acceptable proof of proper abatement, remediation, repair, or removal at the site, the Code Enforcement Officer shall issue written compliance notice to those persons previously served notice under division (C) of this section that the public nuisance order is vacated due to compliance with the provisions of the ordinance. Notice shall also be provided, as applicable and appropriate, to those persons provided information under division (E) of this section.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-10, passed 5-13-2021; Am. Ord ####-##, passed ##-##-####)

§ 152.95 APPEALS.

(A) Right of appeal. When a public nuisance is declared in a formal Notice of Violation, an owner of the affected property may appeal the declaration, including an order for abatement or remediation, by filing a written appeal request with the Mills River Board of Adjustment, with proper payment.

(B) Hearing. If any owner makes a written appeal request with the proper payment identified in the Town fee schedule, to the Board of Adjustment for an evidentiary hearing

to appeal a staff determination related to a nuisance, such hearing shall be held in accordance with the procedures as described in G.S. §160D-405.

(1) Schedule. The evidentiary hearing shall be held at the next available meeting that satisfies public notice requirements after the request for a hearing was received.

(2) Witnesses and evidence. All parties shall have full opportunity to respond to and present evidence and witnesses.

(3) Standard of proof. The appellant shall have the burden of proving its position by clear and convincing evidence.

(4) Rules of evidence. Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Irrelevant, immaterial, and repetitious evidence shall be excluded.

(C) Record of hearing. The hearing shall be recorded, and the minutes of the meeting shall be approved by the Board of Adjustment at their next scheduled meeting.

(D) Notice of decision. The decision of the Board of Adjustment shall be issued in writing within fifteen (15) business days following the hearing. Unless otherwise provided by law, the decision of the Board of Adjustment shall constitute the final decision of the Town.

(E) Further appellate rights. Any party aggrieved by a final decision is entitled to judicial review of the decision. A petition for a writ of certiorari by the party must be filed with the Court of Appeals not more than thirty (30) calendar days after notice of the final decision has been issued by the Board of Adjustment.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-03, passed 3-25-2021; Am. Ord. 2021-10, passed 5-13-2021)

§ 152.99 VIOLATIONS, PENALTIES, COSTS, AND REIMBURSEMENTS.

(A) Civil citations and penalties. Unless otherwise specified in this chapter, any person who is an owner or occupant of property and who violates this chapter, or permits a prohibited nuisance to exist on the property under their control, or fails to take action to abate the existence of the violation(s) within the time specified in the notice(s) described in §152.92 and §152.94, when ordered or notified to do so by the Planning Department, shall be subject to a civil penalty of \$50. Each day's violation shall be treated as a separate finable offense, meaning civil penalties may accumulate at the rate of \$50 per day the property remains in violation of this ordinance.

(1) Civil penalties shall not accumulate to more than \$3,000 for a single property that is determined to be in violation of this ordinance, as declared in the notice described in §152.92 and §152.94. The \$3,000 civil penalty limit applies to each separate instance of an ordinance violation(s), occurring at a different point in time for that property.

(2) Payment of civil penalties shall be due within thirty (30) days upon receipt of the issued civil citation or related invoice for payment.

(3) All civil citations with fines shall be mailed by USPS certified mail, no return receipt requested.

(4) Failure to pay civil penalties within the prescribed period will result in a five percent (5%) late payment penalty added to the total amount due, or as specified in the Town's adopted fee schedule.

(B) Civil action. In the event of a violation of this ordinance or any order entered for abatement of a nuisance, the Town may take appropriate action to enforce this chapter, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations. The Town may recover all costs and expenditures expensed towards remedying the violation, including administrative time and attorneys' fees.

(C) Criminal violation. A violation of this ordinance is a Class 3 misdemeanor pursuant to G.S. §14-4.

(D) If required to remove, abate or remediate a public nuisance, the Town shall make every reasonable effort to recover costs incurred in removal, abatement or remediation in a civil action. The cost of enforcement action under this chapter may be assessed and charged against the real property on which the public nuisance was located. The Town shall extend the cost as assessed and charged against said real property. Nothing herein precludes or limits the Town from seeking recovery of costs through other methods allowed by federal or state law.

(E) Subrogation rights. Nothing in this chapter is intended to limit the subrogation rights of any party and the owner occupants. The Town shall maintain the right to recover costs, referenced in this section, from persons contributing to the damage.

(F) Revocation of development approvals. In addition to initiation of enforcement actions, Town issued permits may be revoked by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same permit review and approval process required for issuance of the permit, including any required notice or hearing, in the review and approval of any revocation of that permit. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable element of this chapter; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state law or local ordinance may also be revoked. The revocation of a permit by a staff member may be appealed pursuant to G.S. § 160D-405.

(Ord. 2019-02, passed 10-12-2019; Am. Ord. 2021-03, passed 3-25-2021; Am. Ord. 2021-10, passed 5-13-2021; Am. Ord #####-## , passed ##-##-####)