

**Town of Black Mountain**

**Title VI Plan**

**Adopted January 13, 2020**

**by the**

**Black Mountain Board of Aldermen**

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## **Introduction**

The Town of Black Mountain has adopted this Title VI Plan to ensure that the Town is in compliance with the provisions of Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance. Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency. Discrimination on the basis of gender, age, and disability is prohibited under related statutes. These Presidential Executive Orders and the related statutes fall under the umbrella of Title VI.

Federal-aid recipients, subrecipients and contractors are required to prevent discrimination and ensure nondiscrimination in all of their programs, activities and services whether these programs, activities and services are federally funded or not. The Town of Black Mountain Planning Director is responsible for providing leadership, direction and policy to ensure compliance with Title VI and environmental justice principles.

Title VI is a mechanism that directs the federal financial assistance, which drives or promotes economic development. By legislative mandate, Title VI examines the following public policy issues:

- Accessibility for all persons
- Accountability in public funds expenditures
- Disparate impact
- Economic empowerment
- Environmental justice
- Infrastructure development
- Minority participation in decision making
- Program service delivery
- Public and private partnerships built in part or whole with public funds
- Site and location of facilities

Title VI was enacted to ensure equal distribution of federal funds regardless of race, color, or national origin. Because of this, Title VI:

- Encourages the participation of minorities as members of planning or advisory bodies for programs receiving federal funds
- Prohibits discriminatory activity in a facility built in whole or part with federal funds
- Prohibits entities from denying an individual any service, financial aid, or other benefit because of race, color, or national origin
- Prohibits entities from providing a different service or benefit, or providing these in a different manner from those provided to others under the program
- Prohibits entities from requiring different standards or conditions as prerequisites for serving individuals
- Prohibits locating facilities in any way that would limit or impede access to a federally funded service or benefit

- Prohibits segregation or separate treatment in any manner related to receiving program services or benefits
- Requires assurance of nondiscrimination in purchasing of services
- Requires entities to notify the respective population about applicable programs
- Requires information and services to be provided in languages other than English when significant numbers of beneficiaries are of limited English speaking ability

Any Black Mountain resident who has experienced discrimination or harassment or have a human rights concern, may file a discrimination complaint with the Town.

**Non-discrimination Policy, Appendix A**

The Town, includes in this plan, the adoption of a non-discrimination policy. This policy is therefore adopted by the Town as part of the Title VI Plan.

**Non-discrimination Notice, Appendix B**

The Town uses the general non-discrimination policy to reflect the adopted policy and support all activities and services provided by the Town of Black Mountain

**Equal Employment Opportunity Statement, Appendix C**

This statement is included on the Town’s job application forms.

**Additional Authorities in Summary**

The Town of Black Mountain establishes the Title VI plan not only on the adoption of a local policy, but by long standing federal law.

**Title VI of the Civil Rights Act of 1964 [Pub. L. 88-352 (1964), codified as 42 U.S.C. §§2000d through 2000d-4]:**

Title VI of the Civil Rights Act of 1964 prohibits the discrimination in, or the denial of benefits under, any program or activity receiving federal financial assistance on grounds of race, color or national origin.

**The Civil Rights Restoration Act of 1987, [Pub. L. 100-259, Sec. 6 (1988), codified as 42 U.S.C. §2000d-4a] :**

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms "programs or activities" to include all programs or activities of federal aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted or not.

**Federal Aid Highway Act of 1973, [Pub. L. 93-87 (1973), codified as 23 U.S.C. §324]:**

The Federal Aid Highway Act of 1973 provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

**Age Discrimination Act of 1975, [Pub. L. 94-135 (1975), codified as 42 U.S.C. §6102]:**

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

**Americans with Disabilities Act of 1990, Subchapter 2, Part A [Pub. L. 101-336 (1990); codified as 42 U.S.C. §§12131-12134]:**

The Americans with Disabilities Act of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

**Section 504 of the Rehabilitation Act of 1973 [Pub. L. 93-112 (1973), codified as 29 U.S.C. §794]:**

Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person, shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

**23 CFR Part 200:**

23 CFR 200 are administration regulations promulgated by the Federal Highway Authority that specify the Title VI implementation requirements for state departments of transportation at state and local levels.

**49 CFR Part 21:**

49 CFR 21 are administration regulations promulgated by the US Department of Transportation that specify the Title VI implementation requirements for state departments of transportation at state and local levels.

**Executive Order No. 12898:**

Executive Order 12898 regards federal actions to address Environmental Justice in minority populations and low income populations. (Environmental justice seeks equal protection from environmental and public health hazards for all people regardless of race, income, culture and social class. Additionally, environmental justice means that no group of people including racial, ethnic or socioeconomic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, land-use planning and zoning, municipal

and commercial operations or the execution of federal, state, local and municipal program and policies).

**Executive Order No. 13166:**

Executive Order 13166 regards the improvement of access to services for persons with Limited English Proficiency.

**Definitions**

As used in this Title VI Plan, the following mean:

**Affected Parties:** persons protected against discrimination because of race, color, national origin, sex, age, disability, or income by the Title VI Requirements, and the Town of Black Mountain's Non-Discrimination Policy.

**Contractor:** a person or entity who has entered into an agreement with the Town that is subject to the Title VI Requirements.

**LEP Program:** the Limited English Proficient program established by the Town to assist individuals who do not speak English as their primary language, and who therefore have limited ability to read, speak, or understand the English language and connect with Town government and assist with needed services.

**Locating and siting actions:** a recommendation by Town staff or decision by the Town staff or the Town Council that will result in the construction of a public facility that could have adverse environmental impacts on the surrounding area.

**Meaningful access:** the provision of communicative assistance by the Town necessary to allow affected persons to participate in governmental services/activities.

**Proposed Project:** a project that receives federal funds and is subject to the Title VI Requirements.

**Subrecipient:** a person or entity that receives federal funds from the Town to be used by the entity to further the objectives of the federal grant. The Town is the recipient of the grant, and the person or entity is a subrecipient of those grant funds. An example of a subrecipient relationship would be where the Town grants federal funds to a non-profit corporation that the corporation uses to provide assistance for low-income households to pay utility bills.

**Title VI Assurances:** conditions imposed upon contractors or subrecipients as a result of federal funding being directly or indirectly provided to the contractor or subrecipient.

**Title VI Requirements:** the nondiscrimination provisions contained in Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of

1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166.

### **Title VI Staffing and Organization for Implementation**

#### *Town Manager*

The Town Manager is ultimately responsible for ensuring the Town's compliance with Title VI Requirements, including, but not limited to, monitoring Town programs, preparing required reports and undertaking such other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21 (Appendix D). To ensure compliance the Town Manager has appointed the Planning Director to serve as the Title VI Plan and Program Coordinator until such time additional staff is hired to support compliance efforts. Other department heads will collaborate with the Planning Director as needed to ensure required compliance.

#### *Planning Director, Serving as Title VI Plan and Program Coordinator*

The Planning Director responsible for the overall management of the Title VI Program, under the direct supervision of the Town Manager to include the following responsibilities as the Title VI Program Coordinator:

- Process and research complaints regarding compliance with this Title VI Plan that are received by the Town and coordinate with relevant and appropriate staff and the Town Attorney, to compile statistical data related to race, color, national origin, sex, age, disability, and income of participants in, and beneficiaries of, federally funded programs to ensure compliance with the Title VI Requirements.
- Review Town programs or projects receiving federal funding for matters regarding Title VI compliance and reporting.
- Conduct training programs related to Title VI Requirements for Town staff who are responsible for Title VI compliance, and for contractors or subrecipients who are subject to Title VI Requirements.
- Make recommendations to the Town Manager on ways to achieve compliance with Title VI Requirements.
- Develop information regarding this Title VI Plan for dissemination to the general public and, where appropriate, use the LEP Program to ensure dissemination of the information to affected populations.
- Ensure that individuals who will be affected by locating and siting actions obtain meaningful access to the public awareness/involvement process.
- Identify deficiencies in compliance with the Title VI Requirements, and make recommendations to the Town Manager for remedial actions to be taken to promptly resolve such deficiencies.
- Annually prepare a Title VI Plan Report that documents progress, accomplishments, impediments and goals in fulfilling this Title VI Plan.

### *Departmental Responsibility*

Each Department Head is responsible for Title VI compliance, with support from the Planning Director, for individual projects. Compliance activities include, but are not limited to:

- Ensuring that all aspects of a project's planning process and operations comply with the Title VI Requirements.
- Ensuring that Affected Parties have meaningful access to a project's planning processes.
- Assisting the Planning Director in gathering and organizing data for the Title VI Plan Report.
- Reviewing the Department work programs, policies, and other directives to ensure compliance with the Title VI Requirements.
- Verifying the level of participation of Affected Parties at public outreach meetings.

### **Title VI Plan: Areas of Practice**

#### *Policy and Public Notice*

The Town will create, publish and post a Public Notice of non-discrimination. **Appendix B.**

The Town adopts within this plan a Non-Discrimination Policy. **Appendix A.**

#### *Elimination of Discrimination*

The Town will continue its practice of identifying discrimination based on race, color, religion, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, and where such discrimination is found to exist, implementing programs or practices to eliminate the discrimination. Programs include, but are not limited to, hiring Minority/Women/Disadvantaged Business Enterprises (DBE) contractors, providing translations through the LEP Program, and conducting public outreach and involvement in Town projects.

#### *Public Dissemination of Information*

The Planning Director shall assist Town staff in the creation and dissemination of Title VI Program information to Town employees, subrecipients, contractors, Affected Parties, and the general public. Public dissemination efforts may include: posting public statements setting forth the Town's non-discrimination policy; inclusion of Title VI Assurances in Town contracts and grants; and publishing a Title VI Policy Statement on the Town's website; including the notice and policy into all adopted plans and program documents.

#### *Title VI Assurances in Contracts and Grants*

Contracts and procurement are integrated into each department. Staff will ensure that all federally funded contracts administered by the Town contain Title VI Assurances. In the event that the Town distributes federal funds to another entity through grants or other agreements, the

Department Head administering the grant or agreement will ensure that such grants and agreements contain the Title VI Assurances. The Department's project administrator or grant administrator will monitor the performance of the contract or grant for compliance. The Planning Director and Department Head will coordinate efforts to ensure that the requirements of Title VI are met throughout the entire contracting and grant performance process.

#### *Data collection*

Statistical data on Affected Parties will be compiled by each department head and provided to the Planning Director. The data compilation process will be reviewed regularly by the Planning Director to ensure the data is sufficient to meet the requirements of this Title VI Plan.

#### *Training program*

Annual training will be made available to Department Heads from the Planning Director who will be required to provide to all staff. Training will provide comprehensive information on the Title VI Requirements and its application to specific programs or operations; assistance on the identification of Title VI issues; and an overview of the complaint process.

#### *Site and Facility Location*

The Town shall not make selection of a site or location of a facility for participants in and beneficiaries of the Town's federal aid programs if that selection could exclude individuals from participation in, or deny them benefits of, or subject them to discrimination on grounds of race, color or national origin, or could substantially impair the accomplishment of the objectives of the non-discrimination policy.

#### *Environmental Justice in Minority and Low-Income Populations*

In accordance with Executive Order 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," the Town will develop strategies to review, consider, and address disproportionately high and adverse human health or environmental effects on minority and low-income populations, to promote non-discrimination in Federal-aid programs, substantially effect human health and the environment, and to provide minority and low-income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

#### *Limited English Proficiency*

In accordance with Executive Order 13166, the Town has established a LEP program. Approximately 4.5% of residents in Black Mountain primarily speak a language other than English. About one-third of these residents speak Spanish. The Town of Black Mountain will review demographic data annually and solicit data from the LEP community to identify language assistance needs within its service areas, utilizing the American Community Survey.

Staff will continue to monitor and evaluate the Town's efforts based on requests for LEP assistance and make adjustments or changes as needed. There are several measures that can be taken to identify persons who may need language assistance in our service area, with emphasis on our primary group requiring help:

- Send out notifications in Spanish of upcoming events/meeting(s).
- Select locations that may be more convenient for LEP persons; send out the notices in Spanish.
- Train staff to utilize translation apps to support LEP persons during regular customer service provided by Town staff.
- When open houses or public meetings are held, set-up a sign-in table and have a staff member greet and briefly speak to each attendee in order to informally gauge his/her ability to speak and understand English.
- Have the Census Bureau's "I Speak" card at various events. Although staff may not be able to provide translation assistance at the time, the cards are an excellent tool to identify language needs for future events/meetings.
- Post a notice of available language assistance at open houses/public meetings to encourage LEP persons to self-identify.
- Examine record requests for language assistance from past meetings and events to anticipate the possible need for assistance at upcoming meetings.
- Survey staff who have contact with LEP individuals to record language assistance requests.

Town of Black Mountain has or will implement the following LEP measures:

Users of the Town of Black Mountain's website have online access to Google Translate, the online language translation service which allows users to translate to and from Spanish and 56 other languages.

At a minimum, the following vital documents will be translated into Spanish:

- Title VI Public Notice
- Title VI Complaint Form
- ADA Complaint Procedures
- All Development Permits
- Bus System Map and Schedules (as provided by local and regional transit providers)

### **Title VI Program Reviews**

The Planning Director will conduct an annual Title VI Plan and Program review to assess the Department's effectiveness in ensuring compliance with the Title VI Requirements. The Title VI Program review will be overseen by the Planning Director with the assistance of other Department Heads, and will include an evaluation of administrative procedures and staffing; review of operational guidelines for town staff, contractors and subrecipients; and assessment of resources available to ensure compliance with the Title VI Requirements.

The Planning Director shall annually prepare an annual report to be submitted to the Town Manager on or before June 30th of each year. The Department Report will be based on the data compiled by the Department Heads and the Title VI Program Review. The Department Report shall include an executive summary; a list of programs subject to the Title VI Requirements; a summary of any complaints of violations of the Title VI requirements and how each complaint was resolved; a summary of the statistical data compiled by the Department Head; a summary of Title VI training provided; and a general assessment of the Title VI compliance by the Department.

### **Planning Director's Title VI Plan Report**

The Planning Director shall annually prepare a comprehensive Title VI Plan Report, and forward it to the Town Manager on or before August 19 of each year. The Title VI Plan Report will be based on the Department Title VI reports, and shall contain an assessment of the accomplishments during the preceding year; a list of recommended changes to the programs subject to the Title VI Requirements; and a list of recommended goals and objectives for the upcoming year.

### **Prevention**

The Town will actively seek to prevent Title VI deficiencies or irregularities. In taking such action, the Department Head will work with the Planning Director to create an action plan within 90 days of the date the need for preventive or remedial action is identified by Town staff. A copy of the action plan will be provided to the Department Head and the Town Manager and retained by the Planning Director. When the Department Head reasonably believes a contractor or subrecipient has violated a Title VI Requirement, the Department Head will follow the following process:

The project or grant administrator and the Department Head will meet with the contractor or subcontractor to conduct an initial review of the facts supporting a finding that a violation of the Title VI Requirements has occurred or is occurring.

If, after the initial review, the Department Head concludes that the contractor or subrecipient has violated the Title VI Requirements, the contractor or subrecipient will be given a reasonable time, not to exceed 90 days from the date notice is provided to the contractor or subrecipient, to voluntarily correct noncompliance.

The Town will seek to obtain the cooperation of the contractor or subrecipient in correcting non-compliance, and will offer to provide technical assistance needed by the contractor or subrecipient to obtain voluntary compliance with the Title VI Requirements.

A follow-up review will be conducted within 180 days of the date notice is provided to the contractor or subrecipient to ensure that the violation of the Title VI Requirements has been corrected. If after the review, the contractor or subrecipient has failed to correct the violation, the Town Manager may take appropriate action (e.g., withhold funds, cancel contract) required to comply with the Town's obligation under the federal grant.

When a contractor or subrecipient has failed or has refused to comply with Title VI requirements within the 180 day period after the initial review, the Department Head will submit two copies of the file to the appropriate state or federal agency, along with a recommendation that the file be reviewed for a determination of whether the contractor or subrecipient has violated the Title VI Requirements.

### **Complaint Process**

Any person who believes that he or she or any other program beneficiaries have been subjected to unequal treatment or discrimination in his or her receipt of benefits and/or services from the Town, or by a contractor or subrecipient on the grounds of race, color, national origin, sex, age, disability, or income, may file a Title VI Complaint with the Planning Director.

Any person who believes that he or she or any other program beneficiaries have been subjected to unequal treatment or discrimination in their receipt of benefits and/or services, or on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, may file a complaint. The complaint form is including in Appendix D of this document.

Every effort will be made to obtain early resolution of complaints. The option of information mediation meeting(s) between the Planning Director, town staff, contractors, subrecipients and Affected Parties may be utilized for resolution.

The following procedures cover all complaints filed under Title VI. These procedures do not deny the right of the complainant after the completion of the Title VI process to file a complaint with state or federal agencies or to bring private action based on the complaint.

1. Any person, group of persons, or entity that believes they have been subjected to discrimination under the Title VI requirements may file a written complaint with the Planning Director. The complaint must be filed within 180 days of the alleged discriminatory act or occurrence.
2. Upon receipt of the complaint, the Planning Director will determine whether the Town has jurisdiction over the complaint, whether the complaint contains the necessary information, what additional information is needed, and whether further investigation is needed. Within five working days of receipt of the complaint, the Planning Director will determine whether the Town has jurisdiction, if the complaint is complete, and if it requires additional investigation.
3. The Planning Director will provide the respondent the opportunity to respond in writing to the allegations of the complaint. The respondent shall have fifteen days from receipt of notification to provide a response to the allegation in the complaint.
4. If the complaint is against a contractor or subrecipient, the Town shall have fifteen days from receipt of the complaint to advise the appropriate state or federal agency of the receipt of complaint and statutes of the investigation.
5. Within sixty days of the receipt of the complaint the Planning Director shall prepare a written investigative report. The report shall include narrative

description of the incident, identification of persons interviewed, findings, and recommendations for resolution and corrective action. The written report will be sent to the Town Attorney.

6. The Town attorney will review the report and meet with the Planning Director and the Town Manager to determine the appropriate action.
7. When the investigative report is complete and appropriate action has been determined, the complainant and respondent shall receive a copy of the report, statement of appropriate action, and notification of appeal rights.
8. Within fifteen days of the complainant and respondent receiving a copy of the report and determination of appropriate action, the Planning Director will meet with each party to discuss the determination of appropriate action as well as the findings made in the investigative report.
9. Within sixty days of receipt of the original complaint, a copy of the complaint and the Town's investigative report and determination of appropriate action will be provided to the appropriate federal or state agency for comments.
10. Within fifteen days of receiving comments from the federal or state agency, the Planning Director will meet with all parties to discuss comments provided by the responding agencies.
11. After receiving comments from the federal or state agency, the Town Manager shall review the comments and adopt a final decision that includes taking appropriate actions to address any comments provided by a federal or state agency. The final decision shall be provided to all parties of the proceedings and shall include a statement that a party has a right to appeal the decision if the party produces evidence of new facts that were not previously considered and could not have been reasonably discovered during the investigation.
12. If a party is not satisfied with the results of the investigation or the resolution of the complaint, the party may appeal the Town Manager's decision to the appropriate federal or state agency, by filing a request for an appeal no later than 180 days after the date of the Town Manager's final decision.

## **APPENDIX A: TITLE VI NON-DISCRIMINATION POLICY**

It is the policy of the Town of Black Mountain to ensure that no person shall, on the grounds of race, color, national origin, Limited English Proficiency, income-level, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Town of Black Mountain program or activity, including, where applicable, religion, as provided by Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities.

The following practices are hereby prohibited throughout the Town of Black Mountain to comply, at a minimum, with Title VI and related requirements:

- Denying to an individual any standard service, financial aid, or other program benefit without good cause;
- Providing any service, financial aid, or other benefit to a person which is distinct in quantity or quality, or is provided in a different manner, from that provided to others under the program;
- Subjecting a person to segregation or separate treatment in any part of a program;
- Restricting in the enjoyment of any advantages, privileges, or other benefits enjoyed by others;
- Using methods of Administrations, which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
- Applying different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual or other integral activities;
- Using 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 s/he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing;
- Allowing discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

## **APPENDIX B: NON-DISCRIMINATION NOTICE AND ACCESSIBILITY RIGHTS**

The Town of Black Mountain, pursuant to its policy to comply with Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities, will not exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, national origin, Limited English Proficiency, income-level, sex, age, or disability (or religion, where applicable), under any programs or activities conducted or funded by the Town of Black Mountain.

Any person who believes they have been wronged by a discriminatory act (action or inaction) of the Town of Black Mountain or its funding recipients, has the right to file a complaint with the Town of Black Mountain. For instructions on how to file a complaint, or additional information regarding the Town of Black Mountain's nondiscrimination obligations, please contact:

Town of Black Mountain  
Planning Director  
160 Midland Avenue  
Black Mountain, NC 28711

You may also visit <https://www.townofblackmountain.org>

Anyone with a hearing or speech impairment may use Relay NC, a telecommunications relay service, to call the Town of Black Mountain Planning Department. Relay NC can be accessed by dialing 711 or 1-877-735-8200.

ATTENTION: If you speak a language other than English, the following language assistance services are available to you, free of charge. Qualified interpreters and information written in other languages. Call 1-800-522-0453.

ATENCION: Si habla un idioma distinto del inglés, los siguientes servicios de asistencia de idiomas están disponibles para usted, de forma gratuita. Intérpretes cualificados e información escrita en otros idiomas. Llame al 1-800-522-0453.

## **APPENDIX C: EQUAL EMPLOYEMENT OPPORTUNITY STATEMENT**

The Town of Black Mountain is an equal opportunity employer. All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, age, sexual orientation, gender identity, national origin, veteran status or genetic information. The Town of Black Mountain is committed to providing access, equal opportunity and reasonable accommodation for individuals with disabilities in employment opportunities.

**APPENDIX D: COMPLAINT FORMS IN ENGLISH AND SPANISH**