



**ELIGIBLE USE POLICY  
FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021  
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS  
BY THE TOWN OF NAGS HEAD, NC**

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

**WHEREAS** US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

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

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

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

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

**WHEREAS** the Compliance and Reporting Guidance states on page 6 that

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

**BE IT RESOLVED** that the Town of Nags Head hereby adopts and enacts the following Eligibility Use Policy for ARP/CSLFRF funds.

Eligibility Use Policy for American Rescue Plan Act of 2021 Coronavirus State and  
Local Fiscal Recovery Funds

This policy defines the permissible and prohibited uses of the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also outlines the determination of how the Town of Nags Head elected to expend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its **Final Rule** regarding use of ARP funds on January 6, 2022, to be effective as of April 1, 2022. The Final Rule identifies permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocate ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026, will result in forfeiture of ARP funds.

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

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

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

II. PROHIBITED USES OF ARPA FUNDING

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

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

The Town of Nags Head, and any of its contractors, may not expend any ARP/CSLFRF funds for these purposes.

III. DETERMINATION OF USE

By adoption of a resolution on June 2, 2021, the Town of Nags Head Board of Commissioners authorized the receipt of ARP/CSLFRF funds and delegated authority to the Town Manager/designee to execute any necessary agreements on behalf of the Board. The Town of Nags Head elected to take the standard allowance, as authorized by 31 CFR Part 35.6(d)(1) and expended all its ARP/CSLFRF for the purpose of government services. By adoption of the Town's fiscal year 2021-2022 budget ordinance dated June 16, 2021, and a budget amendment dated July 6, 2022, ARP/CSLFRF were appropriated and authorized for expenditure for the following project.

1. Asbestos Cement Pipe (ACP) replacement - Investment in water infrastructure, making necessary improvements to improve access to clean drinking water.
  - a. Project Expenditure Category: 6-Revenue Replacement.
  - b. Project Expenditure Subcategory: 6.1 Provision of Government Services.
  - c. Project Budget: \$1,838,853.78.
  - d. Project Timeline: December 2021 through October 2022.
2. The Deputy Town Manager must collect and document required information for purposes of completing the required Project and Expenditure reports and to satisfy the requirements of the grantor agency and grant agreements in accordance with the Town's Allowable Costs and Cost principles Policy.
3. The Deputy Town Manager must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

IV. POLICY AUTHORITY

Following initial adoption of this policy by the governing board, the Deputy Town Manager is hereby authorized to administer, enforce, and make revisions to this policy.

Adopted this the 7th day of September 2022.

  
Benjamin Caboon, Mayor  
Town of Nags Head

ATTEST:  
  
Carolyn F. Morris, Town Clerk

