

Weaverville Fire Department Training Room
 3 Monticello Road
 Weaverville, NC 28787

February 24, 2020
 Public Hearing at 6:45pm
 Regular Meeting at 7:00 pm

	<i>Pg #</i>	<i>Presenter</i>
1. Public Hearing: Code Amendments-Technical Review Committee for Land Use Development *	1	Planning Director
<hr/>		
1. Call to Order		Mayor Root
2. Approval/Adjustments to the Agenda		Mayor Root
3. Approval of Minutes		Mayor Root
A. January 14, 2020 Town Council Workshop Minutes	6	
B. January 27, 2020 Town Council Meeting Minutes	9	
4. General Public Comments		Mayor Root
5. Consent Agenda		Town Manager
A. Monthly Tax Report & Order to Advertise Tax Liens	15	
B. Tax Releases / Refunds	18	
C. Board of Adjustment Rules of Procedure	19	
D. Waterline Extension Project: Adoption of Resolution Approving Interim Financing & Bond Order	36	
E. Set Public Hearing on Code Amendments for Mixed Use Development for March 23, 2020 at 6:45pm	93	
6. Town Manager’s Report	103	Town Manager
7. Discussion & Action Items		
A. Census Complete Count Presentation *	105	Chuck Megown
B. Reems Creek Greenway Plan Development Update *	106	Doug Dearth
C. Action on Code Amendment-Technical Review Committee	107	Planning Director
D. Initial Consideration-Conditional Zoning District for 20/30 Garrison Branch Road *	111	Planning Director
E. Downtown Parking Recommendations *	131	Town Manager
F. Budget Amendment: Public Works *	155	Town Manager
G. Request for Public Street Commitment-Lillie Farm Cove Streets *	157	Public Works Dir.
H. Quarterly Report – Police Department	170	Police Chief
I. Quarterly Report – Fire Department	180	Fire Chief
8. Adjournment		Mayor Root

* Public comment will be permitted at the time of the discussion of the agenda items marked with an asterisk (*). The content and timing rules applicable to public comment at the opening of the Council Meeting shall also apply to comments on agenda items. Such public comment shall be permitted only after each of Town Council has been provided the opportunity to discuss the respective agenda item.

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

PUBLIC HEARING

Date of Meeting: Monday, February 24, 2020

Subject: Public Hearing on a Proposed Text Amendment to Create a Technical Review Committee

Presenter: Planning Director

Attachments: Planning and Zoning Board Recommendation; Proposed Text Amendment; Staff Report

Description:

Staff has prepared a text amendment to achieve a stated goal of the comprehensive land use plan of creating a staff-led technical review committee for development reviews. The Planning and Zoning Board has reviewed said text amendment and offered a unanimous positive recommendation to Town Council related to the proposed text amendment.

The public hearing has been duly advertised in accordance with state statute and municipal ordinance.

Action Requested:

Public hearing before Town Council for the aforementioned proposed text amendment.



**Town of Weaverville
Planning and Zoning Board**

On Tuesday, January 7, 2020 the Planning and Zoning Board reviewed and unanimously recommended to Town Council the attached proposed text amendment which formally creates a technical review committee charged with reviewing all subdivision applications and certain zoning permit applications and offering an opinion to the appropriate authority based upon the committee's findings of compliance with municipal ordinance and relevant state and federal laws, rules and regulations.

It has been found that the proposed text amendment is consistent with the Town's Comprehensive Plan in that the plan calls for the creation of a technical review committee in both subdivision and zoning stated goals as follows:

Implement a staff-led technical review committee for development reviews.

The Planning and Zoning Board considers approval both reasonable and in the public interest as the formalized technical review committee will ensure proper development reviews and offer an opportunity for various members of staff to provide their individual expertise on certain development reviews.

A handwritten signature in blue ink, which appears to read 'Gary J. Burge', is written above a solid black horizontal line.

**Gary Burge
Chairman, Planning and Zoning Board**

Sec. 25-78. - General procedures for review of major and minor subdivisions.

All applications for development of major or minor subdivisions, including for review of concept plans, preliminary plats and final plats, shall be submitted to the town planner at the Weaverville Town Hall. In order to be considered at the next regularly scheduled meeting of the planning and zoning board, applications must comply with all code requirements and be received at least ten business days before the meeting. *The planning director shall coordinate an evaluation of all applications for minor and major subdivisions with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the application for a minor or major subdivision to the Planning and Zoning Board and Town Council based upon the committee's findings of compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.*

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in section 25-27. Minor subdivisions shall be reviewed in accordance with the procedure set forth in section 25-79. The minor subdivision procedure may not be used a second time within three years from the date of its first use on any property which is less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal or equitable interest in the original subdivision at the time the original subdivision received concept plan, preliminary plat or final plat approval. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 25-81 through 25-83.

([Ord. of 3-21-2016\(1\), § 1\(Exh. A\)](#) ; [Ord. of 10-17-2016\(1\), § 1](#))

Sec. 36-298. - Zoning permits required.

A zoning permit shall be obtained from the zoning administrator before beginning any construction on any lot within the town's zoning jurisdiction. No lot shall be graded so as to alter its contour and no building or other structure shall be erected, moved, added to, or structurally altered prior to the issuance of said zoning permit. In no event will the zoning administrator approve any permit for the grading of any lot or the construction or alteration of any building if such building, or its intended use would be in violation of any of the provisions of this chapter, or if the contour of any lot would be altered or graded in violation of the screening and buffering requirements of this chapter.

- (1) *Application for permit.* All applications for zoning permits shall be accompanied by such information as the zoning administrator determines as needed for a full review of the request. Zoning administrator shall ensure that all applications are compliant with the applicable sections of this chapter prior to issuance of permit or transmittal to the decision-making board.
- (2) *Issuance of zoning permit.* Prior to issuing a zoning permit the zoning administrator shall first review the application and supporting documentation to determine compliance with all of the applicable requirements of this chapter. If the plans show that the proposed construction meets all of the requirements of this chapter the zoning administrator shall, prior to the issuance of the zoning permit, make an inspection of the site to determine that the actual location of all existing or proposed buildings or structures, parking areas, buffer strips etc. are located as shown on the plans. If the services of the town engineer or of a registered land surveyor are required to assure that the actual locations, on the ground, are as shown on the plans, the cost of this service shall be paid by the applicant prior to issuance of the zoning permit. Any such charges shall be in addition to the normal charges for such zoning permit. After the zoning administrator finds that the plans and on-site locations meet the requirements of this chapter, the administrator shall issue a zoning permit stating that the proposed construction, if built as located, meets the provisions of this chapter and that the applicant can apply for building and other permits. *When reviewing proposed uses of land related to new commercial, industrial or multifamily residential development, or uses which require the issuance of or an amendment to*

a special use permit or the adoption of a conditional zoning district, the planning director shall coordinate an evaluation of the zoning permit application with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on variables of the proposed development. The technical review committee shall offer an opinion to the zoning administrator on the zoning permit application based upon the committee's findings of compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

Explanatory note: While it may be obvious that a proposed building or structure to be located on a large tract of land meets the setback requirements by simple observation, actual field measurements would be required to determine compliance on a typical residential lot. All such measurements must be made from actual property or right-of-way lines using property corner or right-of-way markers. It may be assumed that the paved portion of any street or alley is in the center of the right-of-way for this purpose only if the right-of-way of record cannot be otherwise established by actual surveys.

- (3) *County permits required.* After the zoning permit is approved and issued, the applicant shall apply to the Buncombe County Permits and Inspections Department, or any successor thereto, for building, plumbing, electrical or other required permits. If such permits are not issued within 60 days after issuance of the zoning permit, the zoning permit shall become invalid.
- (4) *Construction progress.* If no substantial construction progress has been made within 180 calendar days of the date of the issuance of the zoning permit, or if work is suspended for 365 calendar days, the zoning permit shall become invalid; provided, however, the zoning administrator may extend the time for substantial construction progress to be made by up to 180 calendar days, for good cause shown. This provision shall not be applicable, however, for time periods for projects in conditional zoning districts, which shall be governed by subsection 36-84(e), or special use permits, which shall be governed by article IX.

([Ord. of 8-21-2017\(1\)](#), § 1(Exh. A))

Town of Weaverville, North Carolina

Staff Report: Technical Review Committee

Prepared January 2020

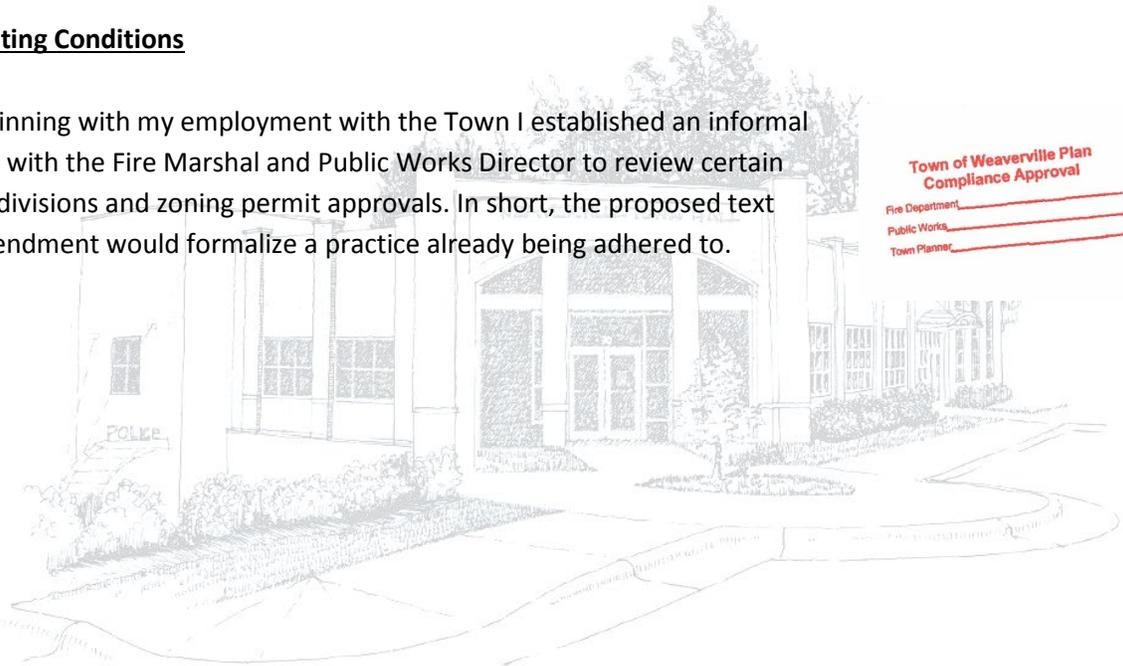
Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

Comprehensive Land Use Plan

In both the subdivision and zoning portions of the action plan based on stated goals within the Comprehensive Land Use Plan, there is a call for the creation of a technical review committee (TRC) for the review of minor and major subdivisions and certain zoning reviews. As you will see in the proposed text amendment, a formalized TRC has been created and inserted into certain sections of municipal ordinance to ensure that proper plan reviews are occurring and the Planning and Zoning Board, as well as Town Council, are provided an opinion from various member of staff based upon the committee's findings of compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

Existing Conditions

Beginning with my employment with the Town I established an informal TRC with the Fire Marshal and Public Works Director to review certain subdivisions and zoning permit approvals. In short, the proposed text amendment would formalize a practice already being adhered to.





Minutes

**Town of Weaverville
State of North Carolina**

**Town Council Regular Workshop
Tuesday, January 14, 2020**

The Town Council for the Town of Weaverville met for a regular workshop on Tuesday, January 14, 2020, at 6:00 p.m. in Council Chambers within Weaverville Town Hall at 30 South Main Street, Weaverville, North Carolina.

Council members present: Mayor Al Root, Vice Mayor/Councilmember Doug Jackson, Councilmembers Dottie Sherrill, Jeff McKenna and Andrew Nagle. Councilmember Patrick Fitzsimmons was absent.

Staff present: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Town Planner James Eller, Town Clerk Derek Huninghake, Finance Officer Tonya Dozier, Public Works Director Dale Pennell, Fire Marshal Kile Davis, and Water Treatment Plant Supervisor Trent Duncan.

1. Call to Order

Mayor Root called the meeting to order on behalf of Town Council at 6:00pm.

2. Continued Discussion of Policies/Procedures for Town Acceptance of Private Streets

Mayor Root mentioned that the Town Council meeting tonight is to continue their discussion on the procedures/policies for the town acceptance of private streets. He noted that Council needed to determine whether the Town should even consider accepting private streets at all or, if they do plan to accept them, when should it be tried for the first time. Also, Council needs to determine that if the customer jumps through all the hoops to get their streets tested and they pass, should Council have to accept them into the Town.

Councilmember Nagle commented that the existing policy shows that after all the road testing, the subdivision still has to come before Council to get approval for acceptance into the Town. The problem with this is if there are new Councilmembers when the testing is finished the outcome from Council could be different, so he is afraid Council could get in trouble. He thinks that they should bring it to Council before any testing is completed and get direction on whether they will approve them if they meet all the steps and pass the testing.

Vice Mayor Jackson agreed with the suggestion by Councilmember Nagle that Council could vote on the developments roads beforehand and notify them that if they pass all the testing then they will be accepted into the Town, so they don't stay in limbo waiting to know if they will be accepted.

Town Attorney Jennifer Jackson indicated that Council could follow the same commitment process as the water allocation process, so that when a developer asks for the Town to bring their streets into the Town, they could say no or yes and apply a set of conditions up front.

Councilmember McKenna believes that Council should have an overriding policy or philosophy in place that would move from Council to Council, so that it is not a case-by-case basis and is more consistent.

Mayor Root mentioned that he thought that if it was a new development and they wanted to be public then they had to be inspected by the Town as they were being built. Public Works Director Dale Pennell mentioned that ideally when the developers come in front of Town Planner James Eller with the project, they inform us from the beginning if the streets are going to be private or public. This would be the basis on which they go through the entire approving and construction process.

January 14, 2020 Town Council
Regular Workshop Minutes

Councilmember McKenna wonders if it is a good thing to take an open philosophy and bring all developers in that want to be brought in from the beginning or existing that pass all the tests, since there will be trade-offs and taxes would most likely have to be increased to help with maintaining these roads.

Mayor Root wondered how reliable the testing was for private streets that have already been built. Public Works Director Dale Pennell noted that the testing would be completed by a reliable testing engineering firm, who would perform a series of tests on the road. If they pass all the testing then that is great, but if they fail then there will be more extensive testing in that substandard area. Plus, it won't just be testing on the service, if there was any valley filled in then they will test down to the initial ground to make sure it is secure.

Councilmember Nagle mentioned that he disagrees with the Town taking in any existing streets, but believes that Council needs to keep it consistent, so if we are going to allow subdivisions to come into the Town then we should give the same opportunity to apartment complexes. He thinks if they pass the testing assigned by the Public Works Director then they should be allowed into the Town.

Mayor Root asked if there were any downfalls to having the developers come before Council first. Town Manager Selena Coffey commented that from an operational perspective it would put more burden on Public Works and staff to take more time looking over the plans.

Mayor Root wonders if the testing would reveal issues that might not fail the test, but might indicate other problems making Council wish they weren't approved. Public Works Director Dale Pennell noted that if they perform all the testing that we require them to do, we will find all the problems with the road and all the underlying parts of the road like draining system.

Councilmember Nagle noted that what he is hearing is if there is a list of conditions and they pass the test, then they would be allowed into Town. He would prefer them to come before Council, so if they don't want the road taken in then they can tell them beforehand.

Town Attorney Jennifer Jackson mentioned that factors, other than the condition of the street, that Town Council might consider could include topography, connecting streets, traffic pattern, or number of houses or businesses served by the street.

Town Manager Selena Coffey noted that this truly is a cost to the Town when we are accepting any streets into the Town, since the Powell Bill funds will not be increasing much. Last year, we received \$106,000 from them and it increased by less than a percent. This is only a small portion of the cost of resurfacing a streets which is approximately \$500,000 per mile.

Councilmember McKenna commented that these other factors are what he likes to see, so that we can avoid them. He doesn't want to take each subdivision at its own merit, so that we can be consistent and take the discretion out of it.

Mayor Root noted that what he is hearing from the majority of Town Council is that, for new streets, they would like them to come before Council first to implement a set of conditions before any work is undertaken. As for existing streets, some Councilmembers might want them to come before Council first and pass conditions as well and others do not want to accept them at all.

Councilmember McKenna noted that he agrees with Councilmember Nagle from the economics of it and doesn't believe we should take in any existing streets. He cares more about the policy being consistent. He is going to continue to researching this issue, but thinks that the liability cost is going to add up someday.

Vice Mayor Jackson would like to know all the streets that could come before Town Council asking to be brought into Town beforehand, since he is concerned that we could be opening a can of worms and have everyone wanting to be taken over by the Town.

Councilmember Sherrill noted that she agrees that the policy needs to be consistent and has concerns that everyone will want to be accepted into the Town but could consider the drafted ordinance in January 2020 if all the risks have been illustrated.

3. Direction to Staff/Next Steps

Mayor Root gave direction for Town Attorney Jackson to draft an ordinance showing that Town Council would not be accepting any existing streets into Town. As for new streets, developers will need to inform the Town during the initial process that they want their streets to be public and private. If they are going to be public then they will need to meet the applied conditions to be accepted.

4. Adjournment.

Vice Mayor/Councilman Jackson made the motion to adjourn the Town Council workshop; Councilman McKenna seconded and all of Town Council voted to adjourn the Council's workshop at 7:05 p.m.

Derek K. Huninghake, Town Clerk



MINUTES

**Town of Weaverville
State of North Carolina**

**Town Council Meeting
Monday, January 27, 2020**

The Town Council for the Town of Weaverville met for its regular monthly meeting on Monday, January 27, 2020, at 7:00 p.m. in Council Chambers within Weaverville Town Hall at 30 South Main Street, Weaverville, North Carolina.

Council members present were: Mayor Al Root, Vice Mayor/Councilmember Doug Jackson and Councilmembers Dottie Sherrill, Jeffrey McKenna, and Andrew Nagle. Patrick Fitzsimmons was absent.

Staff present was: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Finance Officer Tonya Dozier, Town Clerk Derek Huninghake, Town Planner James Eller, Fire Chief Ted Williams, Police Chief Ron Davis, Public Works Director Dale Pennell and Water Treatment Supervisor Trent Duncan.

1. Call to Order

Mayor Al Root called the meeting to order at 7:02 p.m.

2. Approval/Adjustments to the Agenda

Councilmember Nagle mentioned that he had some questions about Consent Agenda Item G, and asked if we should take it off or keep it on and discuss later. Mayor Root noted that we will keep it on the Consent Agenda and can move it if need.

Councilmember Sherrill made a motion to approve the agenda as presented. Councilmember McKenna seconded and all voted in favor of the motion.

3. Approval of Minutes

Vice Mayor Jackson made the motion to approve the minutes from the December 12, 2019 Joint Meeting of Town Council/Planning and Zoning Board and December 16, 2019 Town Council Regular Meeting. Councilmember McKenna seconded the motion and all voted in favor on the approval of the minutes.

4. General Public Comment

Laura Ayers, 300-1 Reems Creek Rd, commented that a heron that hung around Lake Louise had passed away at the Appalachian Wildlife Refuge recently. She expressed a concern that wildlife is being negatively affected by fishing and after speaking with Public Works Director Dale Pennell, Lieutenant Somer Oberlin, and Appalachian Wildlife Refuge individuals, thinks it would be beneficial to hang a contact list and proper fishing laws down at the lake, distribute handouts when individuals purchase their permits at the Town Hall, and have the police department check for proper permits at the lake.

5. Consent Agenda

A. Tax Collector's Monthly Report – Informational Only

B. Tax Releases & Refunds– *Approved the tax release of business personal property owned by G C W Enterprises, Inc. DBA Firehouse Subs, valued at \$102,780, so that \$390.56 can be released from the 2019 levy*

- C. **Arbor Day Resolution** – *Adopted Resolution recognizing Arbor Day on Friday, April 24, 2020*
- D. **Adoption of FY 2020-2021 Budget Calendar** – *Adopted FY 2020-2021 Budget Calendar*
- E. **Set Public Hearing on Code Amendments – Technical Review Committee for Land Development for February 24, 2020 at 6:45 pm** – *Scheduled Public Hearing for Monday, February 24, 2020 at 6:45pm*
- F. **Lake Louise Public Fishing Access Project** – *Approved the Lake Louise Public Fishing Access project and authorized the Mayor and Town Clerk to execute the Memorandum of Agreement and deliver it to Wildlife Resources Commissions*
- G. **Budget Amendment: Police Department Cops for Kids & Pink Patch Project** – *Approved Budget Amendment*

Councilmember Nagle wondered if the funds discussed in the budget amendment are being distributed to the police department or to each specific program to be used. Town Manager Coffey noted that the funds in question have been received throughout the year and then are distributed into the individual program where the funds are only to be used. Finance Officer Tonya Dozier mentioned that on the quarterly report, the budgeted amount is lower than the year to date amount, since the funds haven't been distributed yet. Mrs. Dozier noted that she didn't want to bother Town Council every month with a budget amendment when the funds were received. Mayor Root noted that since the funds are being used in the current year, then we should do these budget amendments as the funds come in. Councilmember Sherrill moved for the approval of the Consent Agenda. Councilmember Fitzsimmons seconded the motion and all voted unanimously to approve all action requested in the Consent Agenda.

6. Town Manager's Report

Town Manager Coffey presented her Manager's report to Council including 1) that the recent MLK Day Observance was very successful and had approximately 35 in attendance; 2) Our firework purchase has been confirmed for the 2020 July 4 Downtown and she has spoken with the Superintendent and Principal Chandler, who approved our use of the Weaverville Primary School baseball field for staging the fireworks this year. Also, based on input from last year, the fireworks display time has been adjusted to 9:45 pm and she has confirmed the band, Devils in Dust, for the event; 3) the Community Center Update will be discussed later in the action items; 4) Town Manager Coffey has confirmed bands for each of our 2nd Saturday Summer Series events this year. (Flyer attached) 5) The Request for Letters of Interest for planning on our greenway is public, with a deadline date of January 31, 2020, and Doug Dearth and her will continue to keep Council updated; 6) The Board of Elections will be using our community room from February 12-29 and they must secure the voting locations, so the February Town Council meeting has changed its location from the Town Hall to the Fire Department Training Room for this Council meeting; 7) and the first session of the 2020 Citizens Academy was held last week with 18 in attendance. She thanked Jan Lawrence for presenting the insightful history of Weaverville, Town Attorney Jennifer Jackson for presenting a legal overview of municipal government and Finance Director Tonya Dozier for presenting information on the Town's finance. Town Manager Coffey presented Town leadership and the budget process. The next session is presented by Town Planner James Eller on Land Use and Code Enforcement, which will be February 20 at the Weaverville Fire Department.

Councilmember Nagle commented that he thinks the 2nd Saturday Summer Series flyer is great and thinks that we should try to get this in the breakrooms of AB Emblem and Thermo Fisher Scientific, instead of just the businesses up Main Street.

Town Manager Coffey noted that Public Works employee Kevin Childers has worked with the Town of Weaverville for 17 years and is retiring at the end of January 2020. The Public Works Department is holding a celebration for him on January 31, 2020 from 1 – 2 pm and the public is welcome.

7. Discussion and Action Items

A. Community Center Project

Town Manager Selena Coffey commented that the Town had a bid opening on January 22, 2020 for the Community Center project, where bids ranged from \$2,779,000 to \$3,577,000. The Town Manager and Legerton Architecture recommend awarding the bid to Goforth Builders, a local contractor who submitted a low bid of \$2,779,000. She reminded Town Council that back at their July 15, 2019 meeting, they voted unanimously to provide a budget of

approximately \$2.5 million for the construction cost of the Community Center (Phase 1) and an additional \$250,000 for outdoor recreational amenities (Phase 2). Town Manager Coffey recommends Town Council take action to 1) award the construction bid to Goforth Builders and approve the execution of the Construction Documents for a negotiated amount not to exceed \$2,779,000; 2) direct staff and Goforth Builders to look at value engineering in an effort to identify cost reductions totaling 5% of the bid or greater and adjust the contract lump sum amount accordingly; and 3) adopt the Capital Project Ordinance.

John Legerton of Legerton Architecture noted that there were five good bids received and he recommends Town Council award the bid to Goforth Builders and set a 5% contingency for the construction project. Mr. Legerton mentioned that Goforth Builders is a local company with a good reputation that has been operating for a number of years in Fairview, NC. He did speak with Goforth Builders after the opening and they feel very confident with their bid amount and are excited to work with the Town of Weaverville.

Councilmember Nagle wondered if there was anything in place to make sure that the builder didn't go over the designated amount. Town Manager Coffey noted that the way the ordinance is written any contingency would have to go before Town Council for approval. Mayor Root also included that there is a performance bond and any change orders would have to be approved by Town Council. John Legerton added that any project will have change orders, but one of the advantages of this project is the site. The project site is a flat site that had a building on it previously, so we don't anticipate any site issues.

Vice Mayor Jackson commented that when you include in the additional inflation from the six month delay and the addition of the fire sprinkler system, this bid amount is remarkably close to the original amount they had determined.

Mayor Root thanked Thomas Veasey, Lou Accornero, and the Lake Louise Community Center committee for their hard work in getting through this process.

Councilmember McKenna asked if the phase 2 project would segway into the back of the building project phase 1. Town Manager Coffey noted that the goal is to hopefully mesh the end of the community center project into phase 2.

Public Comment

- 1) John Bowen, 50 N. College St., commented that he has noticed some extraordinary slow construction projects and wondered if there was anything in the contract that holds the contractor accountable to finishing the project in the next 14 months. Town Attorney Jackson mentioned that there is a liquidated damages provision if they go over the allowed time.
- 2) Laura Ayers, 300-1 Reems Creek Road, asked when the ground breaking ceremony would be held. Town Manager Coffey mentioned that they had not decided yet, since they were still trying to figure out a good time when the Mayor and all of Town Council could get together.

Vice Mayor Jackson made a motion to 1) award the construction bid to Goforth Builders and approve the execution of the Construction Documents for a negotiated amount not to exceed \$2,779,000; 2) direct staff and Goforth Builders to look at value engineering in an effort to identify cost reductions totaling 5% of the bid or greater and adjust the contract lump sum amount accordingly; and 3) adopt the Capital Project Ordinance. Councilmember Sherrill seconded the motion. The motion passed by a majority vote of Council. Motion carries 4-0

B. Waterline Extension Project

Town Manager Selena Coffey commented that on January 15, 2020, the Town held bid openings for the Waterline Extension project and the six bids received ranged from \$1,954,143 to \$2,577,395.68. Staff and the engineering firm of Withers Ravenel have reviewed the bids and recommend awarding the bid to Hyatt Pipeline, LLC, the lowest responsive bidder with a bid amount of \$1,954,143, and approval of the construction contract consistent with the bid. As Town Council is aware, this project is contingent upon approval of interim financing and issuance of USDA revenue bonds by the Local Government Commission (LGC). The next step for Town Council will be the

consideration of and action to approve the interim financing and the later issuance of the revenue bonds which should occur at the Town Council meeting on February 24, 2020. One item that must be presented to the LGC is a final project budget, so if this bid is accepted then the Capital Project Ordinance must be updated to reflect the actual cost of construction to serve as the final project budget. Town Manager Coffey asks Town Council to adopt the amended and restated capital project ordinance.

Councilmember Nagle asked for a simple map showing what Town Council is approving and where the waterlines are connecting into the existing system.

Councilmember Nagle made a motion to 1) award the construction bid to Hyatt Pipeline, LLC, in the amount of \$1,954,143, and approve the construction contract and its execution, all contingent upon LGC approval of the interim financing and later issuance of the USDA revenue bonds, and 2) adopt the Amended and Restated Capital Project Ordinance. Vice Mayor Jackson seconded the motion. The motion passed by a majority vote of Council. Motion carries 4-0

C. Policies Regarding Acceptance of Private Streets

Mayor Root noted that this does not affect any ongoing applications that the Town has received from subdivisions like Creekside Village and Fox Lair Crossing.

Town Attorney Jennifer Jackson discussed the working draft Town policy that was based on conversations at the last Council meeting, since Town Council didn't have any questions about the map and street lists provided. She noted that what we anticipate is a new Article V would need to be added to Chapter 24 entitled "Street Standards and Acceptance of Private Streets and Related Infrastructure into Public Street System." Town Council would need to confirm and make everyone aware that it is still up to their discretion if they want to bring a street into the Town and what standards they would be applying. She also mentioned that staff tried to model the same process according to our water allocation process for new a public street commitment process.

Councilmember Nagle asked how Section 24-85 would pair with our zoning ordinance, or how we are defining these properties? Town Attorney Jackson mentioned that if we proceed with the Article V, there will need to be changes made in the Chapter 25 Subdivision ordinance and Chapter 36 Zoning ordinance to make it consistent.

Mayor Root wondered when Town Council issues a commitment letter, is it a true commitment or will it be coming back before them again? Also, in regard to private streets, what is the current policy and does anyone inspect these roads? Lastly, Mayor Root asked if there was any mechanism setup for maintaining roads through HOAs or subdivision ordinances? Town Attorney Jackson commented that it is her understanding that it would be a true commitment, but Council always has the right at the end of the project to not honor it. As for private streets, there is an inconsistency between Town Standards and DOT standards, but nothing can be built to less than DOT standards and the Town doesn't inspect any unless they are called. Also, the subdivision regulations require the homeowner to show that they are abutting a public road, a private road with a recorded easement. For private roads the developer must include road maintenance provisions in their restrictive covenants.

Next, Town Attorney Jennifer Jackson covered all the alternative options for existing private streets and asked for feedback from Council.

Mayor Root asked for clarification about Option 2 and Town Attorney Jackson said there were some streets that had been inspected by Public Works but they haven't asked to be taken in yet. Town Attorney Jackson mentioned that Declan Drive, Lillie Farm Lane, Critter Trail, and Yarrow Meadow Drive, all apart of the affordable housing development by Mountain Housing Opportunities have been inspected to town standards and have just recently asked to have those roads brought into the Town.

Councilmember McKenna noted that he likes that we are mirroring our water allocation process and getting developers to declare up front, instead of leaving it open ended. He believes if we take Option 4 as it is laid out, then we should add a date and have owners notify the Town if they want to be considered. He would like to see this date be fairly soon like the end of June 2020 or beginning of July 1, then we would publicize it and set another date for when all the testing and steps would have to be completed. He also would like to add from Option 3 that unless such acceptance would, in town council's discretion, further a significant public interest.

Vice Mayor Jackson asked for clarification under Option 4(a), why it says may be eligible for acceptance into Town's street system, instead of will be? Town Attorney Jackson noted that it can say will be, it just depends on the conditions that are decided by Town Council.

Councilmember Nagle noted that first off, he likes that we included new, since it can become an existing street. He preferred Option 1 but thinks that Councilmember McKenna's comments on Option 4 would be great with an end date. The only thing he doesn't want to do is mislead people, so if the testing is done and passes, then they should be allowed into the Town. It shouldn't go back and forth.

Councilmember McKenna mentioned that he wants it to be a little more restricted like the public street commitment should be applied for by July 1, if not then they aren't eligible. Next, they would have to have the testing and steps done within six months, so by the end of the calendar year they would know where they stand on private roads.

Public Works Director Dale Pennell noted that six months is a gracious amount of time for testing, however if there are any deficiencies detected then they would have to be fixed before Town Council brings into the Town, and if it is near the end of the year, then it wouldn't be a good time to work on roads.

Councilmember Nagle discussed that the commitment letter application deadline could be three months like May 1, 2020, the testing period could be three months and then if there are any deficiencies, they have 6 months to fix it. Councilmember McKenna agrees with this, since it add dates and urgency.

Mayor Root mentioned that he believes this is very fair and appropriate. Owners can apply for a commitment letter and then after this they would have to clarify that they are coming into Town at the beginning of the development process.

Public Comment

John Bowen, 50 N. College St., doesn't live on a private road, but he doesn't understand why there must be a deadline for the commitment letter application. Things will change and new homeowners will come in and they might want to come into the Town, so he doesn't see why it should only be allowed for the six months.

Thomas Veasey, 69 Lakeshore Drive, commented about a development going in and the requirements that were met for the width of the street. He believes that streets should be wide enough to maintain a fire truck and allow for parking on one side of the street, so there aren't any issues like Lake Louise.

Judith Craggs, 34 Rabbit Ridge Drive, commented that she isn't hearing a recourse for the older private roads that are not in a development and have a limited amount of people. She says realtors do not tell them that it is private road and retirees can't afford to fix the roads that are deteriorating, so what is Town Council going to do when the fire trucks and garbage trucks can't access these homes that pay Town taxes?

Doug Theroux, 73 Hillcrest Drive, commented that he doesn't see a reason for the application deadline and that staff should mail directly to all residents that face this issue. He also believes that with this deadline, all the applications are going to come in at once and Council won't have the time to address each one individually. Plus, the testing part isn't going to be the expensive part, it will be having to replace the road when most of them don't meet standards.

Councilmember Nagle noted that the reason for the deadline is because he would prefer the deadline as of today, but they are compromising in making the policy to make sure that everyone is able to join. The big misconception is that by default it is a private road, not a public road. Plus it doesn't matter what the developer puts on the plat, since state law says that only a majority vote of Town Council can adopt it. He believes Town Council is trying to get this behind them, so they don't have to consider it every year.

Vice Mayor Jackson made a motion to adopt as a policy what has been drafted as Article V of Chapter 24 with Option 4 included for existing streets with applications due not later than May 1, 2020, a testing period of not longer than three months, and a repair period of not longer than six months from completion of testing, with the understanding that existing streets that do not apply before May 1, 2020, will not be eligible for acceptance into the Town's public street system; and 2) to direct staff to draft appropriate Code Amendments consistent with Option 1 of the policy and bring them back to Town Council for review and possible adoption with an effective date of May 1, 2020.

Councilmember Nagle seconded the motion. The motion passed by a unanimous vote of Council. Motion passed 4-0.

D. Quarterly Report: Planning

Town Planner James Eller presented the Planning Department Quarterly Report from October – December 2019 and noted that 32 Zoning Permits, including 2 Institutional Permits for the Weaverville Community Center and Lake Louise Fishing Pier had been issued during this period. Mr. Eller also gave a review of the Planning and Zoning Board activity during these months that included in October, the board working on a possible high density single family residential zoning district called for by the Comprehensive Land Use Plan and in December, they received the updated regulations from the 2019 NC legislation and held a joint meeting with Town Council. The Zoning Board of Adjustment activity included the board holding a public hearing regarding a variance application for property commonly known as 120 South Main Street in October 2019.

E. Quarterly Report: Finance

Finance Officer Tonya Dozier presented the Quarterly Finance Report from October 2019 – December 2019 with charts summarizing Revenues and Expenditures that provide comparisons from previous years. Some highlights were that the first column of Ad Valorem Tax Revenue is as of December 31, 2019, most of the variances from expenditures are from the timing of capital purchases, and the Cops for Kids revenues and expenditures show when money was received and reason for amendment. Finance Officer Dozier also discussed the updated Capital Project Fund established for the Waterline Extension Project that lists the revenues and expenditures.

8. Adjournment

Vice Mayor Jackson made the motion to adjourn; Councilmember Nagle seconded and all voted to adjourn the Council's meeting at 8:57 p.m.

Derek K. Huninghake, Town Clerk

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Monthly Tax Report and Order to Advertise Tax Liens
PRESENTER: Finance Officer/Town Attorney
ATTACHMENTS: Monthly Tax Report
Proposed Order to Advertise Tax Liens

DESCRIPTION/SUMMARY OF REQUEST:

The most current monthly tax report is attached for Town Council's information.

The attached monthly tax report provides the amount of FY 2019/2020 taxes collected to date and those that remain unpaid. The Tax Collector continues to utilize mailed notices, telephone calls, attachments and garnishments, and payment plans where appropriate to get the unpaid taxes collected. Foreclosure actions are only considered as a last resort.

In accordance with North Carolina law and in order to aid his collection efforts, the Tax Collector intends to advertise all outstanding tax liens in late March or early April in the Weaverville Tribune, the Town's website and e-Focus newsletter.

TOWN COUNCIL ACTION REQUESTED:

The Town Attorney advises that N.C. Gen. Stat. §105-369 requires Town Council to order the Tax Collector to advertise the tax liens. A proposed Order is attached for Council's consideration. A proposed motion is:

I move that we adopt the attached Order to Advertise Tax Liens

**Town of Weaverville
MONTHLY TAX REPORT
FY 2019-20**

2/16/2020

Real Property:	\$ 783,958,380	
Real Property Discoveries:	1,122,100	
Total Real Property:		\$ 785,080,480
Personal:	\$ 73,730,921	
Personal Discoveries:	229,087	
Total Personal:		73,960,008
Public Utilities:		5,406,640
Exemption:		(9,435,215)
Releases:		(2,729,011)
Total Tax Value		\$ 852,282,902

Tax Levy @.38 cents per \$100

Real Property:		\$ 2,983,306
Personal Property:		281,048
Public Utilities:	\$ 20,545	
Less Under \$5 Adjustment	(47)	
Total Public Utilities:		20,498
Exemption:		(35,854)
Releases:		(10,370)
Total Levy (Total Billed)		\$ 3,238,628

Total Current Year Collections	\$	3,115,347
% Collected		96.19%

Total Left to be Collected:	\$	123,281
-----------------------------	----	---------

Prior Years Paid	\$	4,394
------------------	----	-------

STATE OF NORTH CAROLINA

ORDER TO ADVERTISE TAX LIENS

TOWN OF WEAVERVILLE

TO THE TAX COLLECTOR OF THE TOWN OF WEAVERVILLE:

You are hereby ordered pursuant to N.C. Gen. Stat. § 105-369 to advertise the tax liens for all unpaid taxes within the Town of Weaverville in accordance with procedures set forth in Article 26 of Chapter of 105 of the North Carolina General Statutes.

WITNESS my hand and official seal, this 24th day of February, 2020.

TOWN OF WEAVERVILLE

By: _____
ALLAN P. ROOT, Mayor

ATTESTED BY:

DEREK K. HUNINGHAKE, Town Clerk

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Tax Releases and Refunds
PRESENTER: Tax Collector
ATTACHMENTS: None

DESCRIPTION/SUMMARY OF REQUEST:

Town Council is asked to approve the following tax releases and refunds:

- (1) Tax release from a 2019 tax bill for real property with PIN 9752-58-2538, owned by Keith and Sherri Einsmann at 108 Twin Courts Drive, for \$56,700 in value and \$215.46 from the 2019 tax levy and refund this amount (overstated square footage);
- (2) Tax release from a 2019 tax bill of personal property for Barbara Sexton at 14 Wildwood Avenue for \$2,106 in value and \$8.00 from the 2019 tax levy (no longer located in the Town);
- (3) Tax release of business personal property from a 2019 tax bills owned by Weaverville Tribune at 114 North Main Street for \$2,123 in value and \$8.07 from the 2019 tax levy (business no longer located in the Town); and
- (4) Tax release of business personal property of The Sqweelin' Pig at 320 Merrimon Avenue for \$2,554 in value and \$9.71 from the 2019 tax levy (business no longer located in the Town).

TOWN COUNCIL ACTION:

Town Council is requested to approve the above-described release. This action could be in the form of the following motion:

I move to approve: (1) the release of real property of Keith Einsmann at 108 Twin Courts Drive with PIN 9752-58-2538, valued at \$56,700, so that \$215.46 can be released from the 2019 levy and refunded; (2) the release of personal property of Barbara Sexton at 14 Wildwood Avenue, valued at \$2,106, so that \$8.00 can be released from the 2019 levy; (3) the release of business personal property of Weaverville Tribune at 114 North Main Street, valued at \$2,123, so that \$8.07 can be released from the 2019 levy; and (4) the release of business personal property of The Sqweelin' Pig at 320 Merrimon Avenue, valued at \$2,554, so that \$9.71 can be release from the 2019 levy.

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Board of Adjustment Rules of Procedure
PRESENTER: Town Attorney
ATTACHMENTS: Newly Adopted Rules of Procedures

DESCRIPTION/SUMMARY OF REQUEST:

On February 10, 2020, the Board of Adjustment unanimously voted to adopt the attached Rules of Procedure which were prepared with the guidance of Planning Director James Eller and Town Attorney Jennifer Jackson.

There is nothing in the Town's Code or State law that requires Town Council's approval of these Rules of Procedure but staff is of the opinion that they are critically important to the proper functioning of the Board of Adjustment and, therefore, advisable for Town Council to review and consent to them.

TOWN COUNCIL ACTION:

Town Council is asked to consent to Rules of Procedure adopted by the Board of Adjustment. The following motion could be used for that purpose:

I move that we consent to the Rules of Procedure for the Board of Adjustment that were adopted by said Board on February 10, 2020.

Rules of Procedure for the Weaverville Board of Adjustment

INDEX

Section 1. General Rules	3
Section 2. Officers and their Duties.....	3
(a) Chair.....	3
(b) Vice Chair.....	3
(c) Interim Chair.....	3
(d) Clerk.....	3
Section 3. Members	4
(a) Regular Members	4
(b) Alternate Members	4
Section 4. Rules of Conduct for Members	5
(a) Removal.....	5
(b) Attendance	5
(c) Member Disclosures/Testimony.....	5
(d) Conflicts of Interest, Impermissible Bias or Impartiality; Recusals.....	5
(e) <i>Ex Parte</i> Communication	6
(f) Duty to Vote	6
(g) Personal Opinions	6
Section 5. Meetings.....	6
(a) Regular Meetings.....	6
(b) Special Meetings.....	7
(c) Cancellation of Meetings.....	7
(d) Quorum.....	7
(e) Hearing Deferrals and Continuances	7
(f) Recessed Meetings	7
(g) Voting.....	8
(h) Conduct of Meetings.....	8

(i) Agenda and Meeting Materials.....	8
(j) Meeting Recordings.....	9
(k) Oaths.....	9
(l) Subpoenas.....	9
Section 6. Appeals and Applications.....	9
(a) Types of Appeals and Applications.....	9
(b) Procedure for Filing Appeals and Applications.....	10
(c) Evidentiary Hearings.....	10
(4) Re-hearings.....	12
(d) Decisions.....	12
Section 8. Substantive Motions.....	13
Section 9. Procedural Motions.....	13
Section 10. Report to Town Council.....	13
Section 11. Amendment of the Rules.....	14
Section 12. Reference to Robert’s Rules of Order.....	14
APPENDIX – PROCEDURAL MOTIONS.....	15

Section 1. General Rules – The function of the Board of Adjustment (referred to as the “Board” in these Rules of Procedure) is to hear and determine certain quasi-judicial matters under the development regulations and other ordinances of the Town of Weaverville. The Board shall be governed by the terms of Chapter 160A, Article 19, Part 3, of the General Statutes of North Carolina, or by Chapter 160D of the General Statutes of North Carolina beginning January 1, 2021, and by the Code of Ordinances adopted by the Town of Weaverville. The Board shall exercise such additional authority as may be given it under general law, special act and local ordinance. These rules of procedures are intended to supplement and explain procedural provisions and requirements set out in the applicable provisions of law and ordinance. These rules of procedure are adopted by the Board under authority as provided in Section 36-327 of the Town’s Code. All members of the Board shall thoroughly familiarize themselves with these laws. Where these rules conflict with such laws or ordinances, the laws or ordinances shall control.

Section 2. Officers and their Duties –

- (a) **Chair.** A Chair shall be elected by the full membership of the Board of Adjustment from among its regular members. His/her term shall be one year or until a successor is elected, beginning in September of each year , and he/she shall be eligible for re-election. The Chair shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Board.
- (b) **Vice Chair.** A Vice-Chair shall be elected by the Board from among its regular members in the same manner and for the same term as the Chair. He/she shall serve as acting Chair in the Chair’s absence, and at such times he/she shall have the same powers and duties as the Chair.
- (c) **Interim Chair.** In the event neither the Chair nor the Vice-Chair is available for a particular case or meeting, the Board shall elect one of its members to serve as Interim Chair for that case or meeting. At such times the Interim Chair shall have the same powers and duties as the Chair. Should the Chair or Vice-Chair arrive while an Interim Chair is presiding, the Interim Chair shall relinquish all duties with regard to presiding at the earliest point at which such transition may orderly proceed.
- (d) **Clerk.** The Clerk to the Board shall be the Deputy Town Clerk, as appointed by the Town Council. In the absence of the Deputy Town Clerk, the Town Clerk shall serve as the Clerk to the Board. In the absence of both the Town Clerk/Deputy Town Clerk, the Board may appoint a staff or Board member to serve in that capacity until such time as either the Town Clerk or Deputy Town Clerk is available. The Clerk shall not be entitled to vote on any matter.

The Clerk, subject to the direction of the Chair and the Board, shall keep all records, shall conduct all the correspondence of the Board, shall arrange for all public notices required to be given, shall notify the Board of pending meetings

and their agendas, shall notify parties to cases before the Board of its decision on such cases, shall perform such tasks as the Chair shall assign, and shall generally supervise the clerical work of the Board. The Clerk shall keep the minutes of every Board meeting in a permanent volume. The minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted on by the Board, and all votes of members of the Board on any questions, indicating the names of members who are absent or fail to vote. The Clerk shall provide to every new member of the Board print or electronic copies of all relevant ordinances, the Board's Rules of Procedure, and such other educational materials deemed appropriate, shall arrange for an orientation for new members, and shall coordinate provision of continuing education for Board members.

Section 3. Members –

- (a) **Regular Members.** There shall be 5 regular members of the Board, each to be appointed by the Town Council. The term of membership shall be 3 years. Terms begin in September. A member shall continue to serve until a replacement member is appointed and takes office. Members shall be eligible for reappointment. To the extent feasible, the terms of members shall be staggered. Vacancies shall be filled by appointment by the Town Council, with the appointee serving the balance of the replaced member's term. Regular members receiving notice of a meeting which they cannot attend or upon learning that they will be unable to participate in a particular case shall promptly give notice to the Clerk that they are unable to attend or to participate. The member shall, if feasible, provide that notice at least two working days prior to the date of the hearing.
- (b) **Alternate Members.** There shall be 2 alternate members of the Board, each appointed by the Town Council in the same manner as provided for regular members. Alternate members shall be encouraged to attend all meetings of the Board, but shall participate in hearing, deliberating, and deciding a case only when acting in the place of a regular member. On receiving notice that a regular member will not be participating, the Clerk shall, by the most expeditious means, notify an alternate member to attend. An alternate member shall be called upon by the Chair to participate in an individual case in the place of a member who is absent or has a conflict and is ineligible to participate in that case. Assignments shall be rotated between the alternate members. At any meeting or case upon which they are called upon to participate, alternate members shall have the same powers and duties as regular members. Alternate members who are present and participate in hearing an individual case shall continue to hear, deliberate and vote on that case at any subsequent meeting. Members of the Board of Adjustment present at the meeting, but not serving on the Board of Adjustment, shall step down from the Board seating area and remain in the audience or side tables until called back by the Chair. At no time shall more than

5 members participate officially in any meeting or hearing of the Board of Adjustment.

Section 4. Rules of Conduct for Members –

- (a) **Removal.** Members of the Board of Adjustment may be removed by Town Council for cause, including violation of the rules stated herein. The Chair shall report to the Town Council any violation of these rules of conduct. Where feasible, the Town Council shall notify a member being considered for removal of the reasons for removal and give that member an opportunity to respond.
- (b) **Attendance.** Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board. Any regular Board member who is absent for more than three consecutive regular meetings or more than half of the regular meetings in a calendar year shall lose his or her status as a Board member. Remote participation in a Board meeting is not allowed. Absence due to sickness, death in the immediate family, or other emergencies of similar nature shall be recognized as excused absences and shall not affect a member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence the member shall be replaced. The Clerk to the Board shall keep a record of attendance and shall provide reasonable notice to any member who is in immediate risk of failing to meet these attendance requirements.
- (c) **Member Disclosures/Testimony.** Board members should disclose at the hearing any pertinent facts about a pending case of which they have personal knowledge prior to the hearing. Other than this type of disclosure, a board member seated for a hearing should not testify at that hearing. A Board member who is recused from a case should avoid testifying as a witness in that hearing if at all feasible.
- (d) **Conflicts of Interest, Impermissible Bias or Impartiality; Recusals.** Board members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed *ex parte* communications; a close, familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. For purposes of conflicts a close familial relationship shall include a spouse, parent, child, brother, sister, grandparent, or grandchild, and any step, half or in-law relationships. Board members shall endeavor to avoid the appearance of impropriety. A member with a potential bias or conflict of interest may consult with the Chair, the Clerk, or the Town Attorney regarding that potential conflict prior to the hearing. A Board member with a bias or conflict of interest shall declare that at the opening of the hearing on the matter and shall recuse himself or herself from all participation in hearing and deciding the case. If an objection is raised to a member's

participation in a case by a party to that case or by another board member and that member does not recuse himself or herself, the remaining members of the Board shall by majority vote rule on the objection. When a member is recused, that member shall absent himself or herself from the hearing room for the duration of the board's hearing, deliberation, and vote on that matter and an alternate shall be called by the Chair to replace him/her. If no alternate is available, the seat shall be declared vacant for the purposes of the vote of the particular matter at issue.

- (e) *Ex Parte Communication*. Board members shall not discuss any quasi-judicial case with, or receive any information about a case from, any parties to the case, other board members, or from other interested persons outside the evidentiary hearing on that case. No Board member shall conduct an investigation or gather facts about the case outside the evidentiary hearing. Visits to the site of a pending case for the purpose of investigation or fact-gathering is prohibited. Board members may seek and receive general information about ordinance and planning provisions pertaining to the case from the Clerk, Town staff, or the Town Attorney, provided any factual queries regarding the pending case itself shall only be made in open session at the evidentiary hearing.
- (f) *Duty to Vote*. Board members shall not vote on the merits of any quasi-judicial matter unless the board member has either attended the evidentiary hearing on that matter or has thoroughly reviewed the full hearing record for that matter. No Board member shall be excused from voting except upon matters involving the consideration of his own financial or personal interest or the consideration of his official conduct. In all other cases, a failure to vote by a member who is present at the meeting place or has withdrawn without being excused as provided in subparagraph (c) above, shall be recorded as an affirmative vote.
- (g) *Personal Opinions*. Members of the Board shall not express individual personal opinions on the proper judgment of any case with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Board.

Section 5. Meetings

- (a) *Regular Meetings*. Regular meetings of the Board shall be held on the 2nd Monday of each month at 7:00 p.m. in the Council Chambers of Town Hall, provided that meetings may be held at any other convenient place in the Town if the Chair so directs before the meeting. The Clerk to the Board shall make the schedule of regular meetings available to the public and shall post a copy of the schedule on the Town website. Regular meetings and hearings may be rescheduled by the Chair if a scheduled meeting or hearing cannot be held because of a holiday, weather, lack of a quorum, or other unusual circumstance. Notice of a rescheduled or relocated meeting shall be provided in the same means as required for a special meeting. Regular meetings are subject to cancellation by the Chair if there is no business for the Board. When an

evidentiary hearing will be conducted at a regular or special meeting, all required notices to the parties must be provided within the times set by state law and Town Code of Ordinances.

- (b) **Special Meetings.** Special meetings of the Board may be called at any time by the Chair in accordance with applicable provisions of the Open Meetings Law, North Carolina Gen. Stat. § 143-318.12. At least 48 hours' written notice of the time and place of a special meeting shall be given by the Clerk to the Board to each member of the Board and to each news organization and person requesting such notice. This notice may be provided by electronic mail. This notice shall also be posted on the Town website. Special meetings may be called by the Chair as necessary for Board training, work sessions, a heavy workload, or the conduct of Board business. When an evidentiary hearing will be conducted at a special meeting, all required notices to the parties must be provided within the times set by state law and Town Code of Ordinances.
- (c) **Cancellation of Meetings.** If there are no quasi-judicial cases to be heard or other business before the Board, if there is a weather emergency or similar situation, or if so many regular and alternate members indicate that they will not be able to attend that a quorum will not be available, the Chair may cancel a regular meeting by giving written and oral notice to all Board members. If feasible, notice of cancellation shall be made not less than 24 hours before the time set for the meeting. The Clerk to the Board shall post a notice of the meeting cancellation at the regular meeting location.
- (d) **Quorum.** A quorum of the Board, necessary to meet, shall consist of 3 members of the Board, but the Board shall not vote on any questions related to an appeal of a decision or a determination of the Zoning Administrator or an application for a variance or special use permit when fewer than 4 members of the Board are present. If fewer than 5 voting members of the Board are present, a party to a quasi-judicial matter may request that the hearing be continued until 5 voting members are present. Whenever during a meeting a quorum ceases to be present, if no objection is raised by a member of the Board, the Board may continue to hear evidence and debate but not vote on any action except to adjourn.
- (e) **Hearing Deferrals and Continuances.** Once a quasi-judicial case has been noticed for hearing, the Board generally expects the case to be heard at that time. An applicant may make a written request to delay consideration of a case to the next scheduled meeting, provided that the request is received at least 24 hours prior to the scheduled meeting. Except for good cause shown, if an applicant fails to appear at a meeting to prosecute his or her application, and the hearing has been continued one time before, the Board may dismiss the application for failure to prosecute. An application that has been dismissed may be resubmitted upon payment of applicable fees.
- (f) **Recessed Meetings.** A properly called regular or special meeting may be recessed to a time and place certain by a motion made and adopted in open

session during the regular or special meeting. The motion shall state the date, time and place when the meeting will reconvene. No further notice need be given of such a recessed session of a properly called regular or special meeting.

- (g) **Voting.** All regular members shall vote on any issue unless they have disqualified themselves for one or more of the reasons state in Section 4(d). Alternate members shall vote on any issue for which they are seated in place of regular members unless they have disqualified themselves for one or more of the reasons stated in Section 4(d). The required vote to issue a variance shall be 4/5 of those members eligible to vote on the matter. If a motion to approve a variance does not receive the affirmative vote of 4/5 of those members eligible to vote, the variance shall be deemed denied. When this occurs, members who did not cast an affirmative vote on granting the variance shall state for the record their rationale for casting a negative vote. The required vote to decide any other quasi-judicial matter and any other matter before the Board shall be a simple majority of all members eligible to vote on the matter. The Chair votes as any other Board member.
- (h) **Conduct of Meetings.** All meetings shall be open to the public, except for closed sessions as allowed by law. By general consent of the Board, items may be considered out of order, however the general order of business at regular meetings shall be as follows:
- i. Call to order; roll call, announcements;
 - ii. Action on minutes of previous meetings, including acceptance and correction;
 - iii. Evidentiary hearings, consideration, and determination of cases;
 - iv. Consideration of staff- or board-initiated matters;
 - v. Reports of committees or staff;
 - vi. New business;
 - vii. Adjournment.
- (i) **Agenda and Meeting Materials.** An agenda for each meeting and hearing shall be prepared by the Clerk to the Board and shall be distributed to all members of the Board, applicants with cases to be heard, and any other interested person who has made a written request to receive an agenda. The agenda shall be distributed at least one week prior to regular and special called meetings. Written briefs, documents, letters, and staff reports may be submitted to the Board members by the Clerk to the Board prior to any evidentiary hearing, provided that any such material is also submitted to all parties to that case at the time they are submitted to Board members. Staff may establish reasonable deadlines for submission of any such material to be distributed prior to the hearing. Such materials shall be distributed at the same time the meeting agenda is distributed. Any such material shall be part of the hearing record and introduced as documentary evidence at the evidentiary hearing. Board members shall endeavor to review the materials prior to the hearing.

- (j) **Meeting Recordings.** The Clerk shall make audio or video recordings of each meeting and hearing. Electronic recordings that may be used to generate transcripts for judicial review as needed shall be made of each meeting and shall be held for safekeeping by the Clerk in accordance with record retention policies set by state law and Town policy. Any party to a quasi-judicial proceeding may request a verbatim transcript of the evidentiary hearing, with the cost of preparation of the transcript borne by the party making that request. Any person may make an audio or video recording of any Board hearing or meeting, provided it is done in a manner that does not disrupt the hearing or meeting.
- (k) **Oaths.** All witnesses presenting testimony in evidentiary hearings shall be sworn in. Oaths may be administered by the Chair or the Clerk to the Board, or any notary public present and available to do so. An affirmation may be made by any witness with a religious objection to swearing.
- (l) **Subpoenas.** Persons with standing on a quasi-judicial matter before the Board may make a written request to subpoena witnesses or to compel the production of evidence. The Chair shall issue subpoenas determined to be reasonable in nature and scope and not oppressive. The Chair shall rule on any objections or motions to quash subpoenas. The Chair's decisions on subpoenas may be appealed to the full Board.

Section 6. Appeals and Applications –

(a) Types of Appeals and Applications.

- (1) The Board shall hear and decide all appeals from final, binding written decisions or determinations made by the Zoning Administrator as provided in the Town Code of Ordinances and by state statutes.
- (2) The Board shall hear and decide petitions for variances from the zoning ordinance and other such ordinances as provided in the Town Code of Ordinances.
- (3) The Board shall hear and decide all special use permits, and amendments thereto, as provided in the Town Code of Ordinances.
- (4) The Board shall make interpretations of the Zoning Map, including disputed questions of zoning district boundary lines and similar questions that may arise from administration of the development regulations of the Town of Weaverville.
- (5) The Board shall also hear and decide all matters referred to it or upon which it is required to pass by the Town Code of Ordinances and any other matters assigned to it by ordinance or by law.

(b) Procedure for Filing Appeals and Applications.

- (1) An appeal of a decision or determination of the Zoning Administrator shall be filed with the Town Clerk or such other officer as designated by the Town Code of Ordinances. The notice of the appeal shall state the grounds for the appeal. No appeal shall be heard by the Board unless the appeal is filed within 30 days of written or constructive notice of the order or determination made by the Zoning Administrator.
- (2) Applications for variances and special use permits, or amendments thereto, shall be accompanied by a site plan of sufficient size and accuracy to enable the Board to see the precise location and size of the variance and/or nature and location of the special use permit being sought. Such application shall specifically state the type of variance or special use permit being sought. Upon submission of an application, the Zoning Administrator shall determine if these requirements are satisfied.
- (3) All appeals, applications, and any other matter coming before the Board shall be made upon the form for that purpose, if any.
- (4) All required information shall be complete and all required fees paid before an appeal, application, or other matter shall be considered as having been filed.
- (5) An applicant may withdraw any appeal, application, or other matter at any time prior to a Board decision on the matter. A withdrawal shall be made in writing. Upon withdrawal the case is closed. A new application and fee must be submitted if the application is renewed.

(c) Evidentiary Hearings.

- (1) *Time* – After receipt of an appeal, application, or other matter, the Clerk to the Board shall schedule the matter for hearing at the first available regular meeting or call for the scheduling of a special meeting scheduled within 45 days from acceptance of a complete application, unless otherwise agreed upon by the applicant.
- (2) *Notice* – The Board shall give notice of the evidentiary hearings on quasi-judicial cases by first-class mail to the person whose appeal or application is the subject of the hearing, to the owner of the affected property if the owner did not initiate the hearing, and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice shall be posted in the mail at least 10 days but not more than 25 days prior to the date of the hearing. A notice of the hearing shall also be prominently posted on the property that is the subject of the hearing (or the adjacent street right-of-way) in this same time period. The Board must also comply with any additional notice required by the development regulations as adopted by Town Council. The hearing notice shall include the location of the property subject to the hearing, the general nature of the matter being heard, and the date, time, and location of the hearing.

If a hearing is set for a given date and a quorum of the Board is not present, the hearing shall be continued until the next regular Board meeting by announcement by the Chair without further advertisement. In addition, the Board may, without further advertisement, continue a hearing to a date and time certain after the hearing has been called to order.

(3) *Conduct of Evidentiary Hearing* – Any party may appear in person or by agent or by attorney at the hearing. The order of business for hearing shall be as follows:

- (1) The Chair, or such person as the Chair may direct, shall give an opening statement regarding the nature of the hearing and the process that will be followed.
- (2) The Chair shall poll all Board members participating in the case as to any *ex parte* communications, bias, or conflicts of interest. Issues of participation of board members in consideration of the case, or other jurisdictional issues shall be addressed.
- (3) Issues of standing shall be addressed and parties to the matter shall be identified.
- (4) Witnesses that may offer testimony are to be sworn in.
- (5) The Chair or the staff shall provide a preliminary statement of the case, including a summary of the facts and relevant ordinance provisions.
- (6) Staff shall present the application, supporting materials, staff report, evidence showing notice of the hearing, and any other written materials received and distributed prior to the hearing for introduction into the hearing record.
- (7) The applicant shall present evidence and argument in support of the application or appeal.
- (8) Parties opposed to the application, including staff from whom an appeal is being taken, may present evidence and argument.
- (9) Other persons may present relevant evidence.
- (10) Parties may present rebuttal evidence.
- (11) Closing statements or summaries may be made by parties to the case or by staff.
- (12) The Board shall deliberate on and make a determination of the case.

Witnesses may be called and factual evidence may be submitted. The Chair must recognize witnesses before they are heard and confirm that they are under oath. The Chair shall allow all witnesses to be heard but may limit testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony. The Chair shall allow the parties to the case

to make direct and cross-examination of witnesses and to present rebuttal evidence. The Chair may establish reasonable procedures to assure that is done in a fair, impartial, and efficient manner. Board members may ask questions of any witness.

The Board shall not be limited to consideration of such evidence as would be admissible in a court of law, but all decisions must be based on competent, material, and substantial evidence properly placed in the hearing record.

Upon completion of the presentation of evidence, Board members shall discuss the case among themselves in open session and may recall any witness to ask further questions and otherwise deliberate among themselves. Board members shall not discuss the case or give opinions on the evidence until initial presentation of the case is completed.

- (4) *Re-hearings* – An application for a rehearing may be made to the Board and shall contain evidence that there has been a substantial change in the facts or conditions of the case. The Board may decide to conduct a full evidentiary hearing to consider such application. The application for rehearing shall be denied by the Board if, from the record, it finds there has been no substantial change in facts or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as a new application.

(d) *Decisions.*

- (1) *Time* – Decisions by the Board shall be made in a reasonable time from the completion of the evidentiary hearing but in no event later than 60 days from the conclusion of the hearing.
- (2) *Motion and Voting* – Voting on an appeal, application, or other matter shall be in accordance with the provisions of Town Code and the General Statutes. A vote on a request for a variance, special use permit, or on an appeal of a staff determination shall be in the form of a motion to approve the request, and such motions shall require a second. A motion made to determine a quasi-judicial matter shall state specifically any conditions desired to be made a part of that decision and shall reference, if appropriate, any documents or maps submitted as a part of that application. Any such references made in the motion shall, if approved, be part of the record and decision in that case. The vote of each member shall be recorded. If a request or application is not approved, the members voting not to approve shall state for the record the factual findings and rationale that support their opposition.
- (3) *Form* – All decisions of the Board on quasi-judicial matters shall be reduced to writing as soon as practicable after the case is decided. The written decision shall reflect the Board’s determination of disputed facts and the application of the pertinent standards to those facts. The written decision shall be signed by the Chair or other duly authorize member of the Board. After signature,

the written decision shall be filed with the Clerk to the Board and delivered to the parties.

- (4) *Effective Date and Filing* – Decisions of the Board on quasi-judicial matters are effective upon filing the written decision with the Clerk to the Board and the delivery of the decision to the applicant, the property owner (if different from the applicant), and to any other person who filed a written request for a copy of the decision of the evidentiary hearing on the matter. The decision may be delivered by personal service, first-class mail, or electronic mail.
- (5) *Public Records of Decisions* – The decisions of the Board shall be a public record available for inspection at all reasonable times. All decisions shall be entered into the minutes of the Board. The Clerk to the Board shall maintain copies of all written decisions of the Board.

Section 8. Substantive Motions –

All Board action shall proceed by motion. Any member, including the Chair, may make a motion. A motion does not require a second. A member may make only one motion at a time. A substantive motion is out of order while another substantive motion is pending.

The Chair shall state the motion and then open the floor to debate. The chair shall preside over the debate according to the following general principles:

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

A motion shall be adopted by a majority of the votes cast when a quorum (as defined in Section 5(d)) is present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first. A motion that is defeated can be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Section 9. Procedural Motions – In addition to substantive proposals, the Board shall utilize the usual and customary procedural motions consistent with the spirit of *Robert's Rules of Order Newly Revised* to provide for an orderly meeting. See [Appendix](#) for a list and description of some procedural motions. For questions regarding parliamentary procedures see Section 12.

Section 10. Report to Town Council – The Board, with the assistance of staff, shall prepare and submit to the Town Council a report of its activities on an annual or more frequent basis. Such report shall contain a description of the Board (its members, officers, attendance, and the number of meetings held) and a statement of the number and each

type of case heard and a summary of the actions taken. The report may also include any other matters the Board deems appropriate for inclusion.

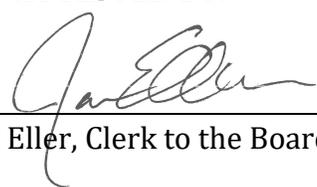
Section 11. Amendment of the Rules – These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment to the rules as one of the stated purposes of the meeting, unless a statute or rule of Town Council provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a quorum of the Board. No amendment to the Rules shall be effective until Town Council has granted its approval.

Section 12. Reference to Robert’s Rules of Order – The Board shall refer to the current edition of *Robert’s Rules of Order Newly Revised* (“RONR”), to answer procedural questions not resolved in these rules, so long as RONR does not conflict with North Carolina law or with the spirit of these rules.

ADOPTED by the Board of Adjustment this the 10th day of February, 2020.



Tycer Lewis, Chair

ATTESTED BY:


James Eller, Clerk to the Board

CONSENTED TO by Town Council this the ____ day of _____, 2020.

Allan P. Root, Mayor

ATTESTED BY:

Derek K. Huninghake, Town Clerk

APPENDIX – PROCEDURAL MOTIONS

Unless otherwise noted, each motion described below is debatable, may be amended, and requires a majority vote of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted. In order of priority (if applicable), some procedural motions are:

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

Motion 2. To Adjourn/Recess. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation on a pending matter. A motion to recess to a date, time and place certain shall also comply with the requirements of Section 5(e).

Motion 3. To Take a Brief Recess.

Motion 4. To Follow the Agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules. The board may not suspend provisions of the rules that state requirements impose by law on the board. For adoption, the motion requires an affirmative vote equal to a majority of the entire membership of the board. A majority is more than half.

Motion 6. To Divide a Complex Motion and Consider it by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 7. To Defer Consideration. The Board may defer a substantive motion for later consideration at an unspecified time. A substantive motion which has been deferred automatically expires 100 days after the deferral unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending and has not expired. A person who wishes to revisit the matter during that time must take action to revive consideration of the original motion, or else move to suspend the rules.

Motion 8. Motion for the Previous Question. To end debate and call for a vote on a motion, a Board member can move the previous question. The motion is not in order until there has been a full debate and every member has had an opportunity to speak at least once.

Motion 9. To Postpone to a Certain Time and Day. To delay action on a pending motion a motion to postpone to a certain time and day would be proper. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules.

Motion 10. To Refer a Motion to a Committee. The Board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty days or more after the substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire Board, whether or not the committee has reported the matter to the Board.

Motion 11. To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote. Any amendment to a proposed order, policy, regulation, statement, resolution, or recommendation, shall be reduced to writing before the vote on the amendment.

Motion 12. To Revive Consideration. The Board may vote to revive consideration of any substantive motion earlier deferred by adoption of a motion to defer consider under **Motion 7**. The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

Motion 13. To Reconsider. The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Motion 14. To Rescind or Repeal. The Board may vote to rescind action it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Waterline Extension Project
PRESENTER: Finance Director
ATTACHMENTS: Resolution Approving the Interim Construction Financing and Bond Order Authorizing Water Revenue Bonds, Including an Initial Revenue Bond Issue in the Maximum Amount of \$2,800,000

DESCRIPTION/SUMMARY OF REQUEST:

The last few action items that Town Council is to consider on this project is the interim construction financing and the bond order.

Due to the construction bid coming in under budget the Town is only seeking \$2.5 million in interim construction financing. This amount is expected to be sufficient to pay for the budgeted construction costs and will keep the cost of financing down as much as possible. USDA has agreed to keep the entire \$2.8 million obligated on the project but will decrease the bond amount at the completion of the project if the construction costs are lower than the \$2.8 million. In other words, the Town is seeking the least amount of financing to cover project cost (short term with the interim financing and long term with the revenue bonds).

The Local Government Commission (LGC) requested proposals on the Town's interim financing of the construction of the Waterline Extension Project and proposals have been reviewed. The Town Manager, Finance Director and the LGC are in agreement that the best financing proposal is the one submitted by First Citizens Bank with a rate of 1.89% and a maturity date of June 16, 2021. It is recommended that Town Council approve the interim financing as proposed by First Citizens Bank and the later issuance of the revenue bonds. A resolution and bond order are attached for that purpose.

This requested action is subject to LGC approval and the Town's financing plan for this project is on the LGC's agenda for March 3, 2020. If all goes as expected the interim construction financing will be in place in March and the Notice to Proceed can be issued.

COUNCIL ACTION REQUESTED:

The Town Manager recommends that Town Council take action to adopt the attached ***Resolution Approving Interim Construction Financing for the Waterline Extension Project*** and ***Bond Order Authorizing Water Revenue Bonds, Including an Initial Revenue Bond Issue in the Maximum Amount of \$2,800,000, to Help Finance the Waterline Extension Project.***

TOWN OF WEAVERVILLE
RESOLUTION APPROVING INTERIM CONSTRUCTION
FINANCING FOR THE WATERLINE EXTENSION PROJECT

WHEREAS --

The Town of Weaverville has previously determined to acquire, construct and generally carry out (the “Project”) with certain improvements to the Town’s water system, particularly including the construction of water main lines beginning at the existing water main at the north end of Clarks Chapel Road and running along Clarks Chapel Road and Ollie Weaver Road in order to connect with the existing water main on Monticello Road.

The Town has previously authorized the issuance of up to \$2,800,000 water revenue bonds (the “Bonds”) to pay Project costs, as authorized by a loan commitment from the United States of America – Department of Agriculture. Because of a good outcome in receiving construction bids, the Town finds it necessary to authorize only \$2,500,000 in construction financing.

The North Carolina Local Government Commission (the “LGC”), in consultation with the Town, has solicited proposals from banks and other financial institutions to provide construction-period financing for the Project in the form of water revenue bond anticipation notes. The notes are to be issued in anticipation of the later sale of the Bonds. First-Citizens Bank & Trust Company (the “Lender”) has submitted the best proposal for the purchase of the notes.

BE IT THEREFORE RESOLVED by the Town Council of the Town of Weaverville, North Carolina, as follows:

1. *Determination to Proceed with Financing through the Lender* – The Town will carry out the Project with interim construction financing in the form of a new issue of water revenue bond anticipation notes in the aggregate principal amount of \$2,500,000. The Town will issue the notes in anticipation of the later

issuance of the Bonds.

The Town accepts the Lender's proposal, dated February 11, 2020, for the purchase of the Notes. The Town asks the LGC to sell the notes to the Lender at a private sale, substantially in accordance with the Lender's proposal and this resolution.

2. Form and Details of Notes -- The bond anticipation notes will take the form of a single water revenue bond anticipation note (the "Note") to be designated "Water Revenue Bond Anticipation Note, Series 2020." The Note will be dated the date of its delivery to the Lender, will mature on June 16, 2021, and will bear interest at the annual rate of 1.89% payable at maturity but subject to prepayment as provided below. The Note will be fully registered as to the payment of principal and interest and will be registered initially in the name of the Lender or its designee. All payments will be made in lawful money of the United States, and interest will be calculated on the basis of a 360-day year of twelve 30-day months.

The Town may prepay principal of the Note in whole, but not in part, at any time upon payment to the Lender of the principal amount to be prepaid plus interest accrued to the prepayment date, without penalty or premium.

The Note will be substantially in the form set out in Exhibit A, with such changes as the officers signing the Note may approve. The delivery of the Note to the Lender will be conclusive evidence of the Town's approval of the final form of the Note.

The Note must be signed by the manual or facsimile signature of the Mayor or the Town Manager. The Town's seal must be affixed to the Note (or a facsimile of the seal printed on the Notes) and attested by the manual or facsimile signature of the Town Clerk. No Note will be valid unless at least one signature appearing on the Note is manually applied; the manual signature may be the signature of an LGC official that is required by law to appear on the Note.

3. Issuance under Bond Order - The Note is issued as a bond anticipation note within the meaning of Section 2.04 of the Bond Order for Town

water revenue bonds previously adopted on February 24, 2020 (the “Bond Order”).

4. Pledge of Net Revenues, Note Proceeds and Bond Proceeds – (a) All “Net Revenues,” as defined in the Bond Order, are hereby pledged to the payment of the principal of and interest on the Note, subject only to the right to make application of the Net Revenues to other purposes as provided in the Bond Order and by law. The Town will apply the Net Revenues to the payment of principal of and interest on the Note as the same become due, to the extent other funds (such as Bond proceeds) are not otherwise available and appropriated for that purpose.

(b) All proceeds of the Note, including the investment earnings on the original proceeds (together, the “Proceeds”), are hereby pledged to the payment of the Note, subject to the Town’s right to apply the Proceeds to “Project Costs” as provided in this resolution.

(c) In addition, the proceeds of the Bonds are also hereby pledged for the payment of the Note, and the Note shall be retired from the Bond proceeds as the first priority.

5. Note Will Be a Special Obligation -- The Note will be a special obligation of the Town, payable solely from the Net Revenues and other funds pledged therefor as provided in this resolution and in the Bond Order. The principal of and interest on the Note are payable solely from those revenues and other funds. Neither the Town’s faith and credit nor its taxing power is or will be pledged for the payment of the principal of or interest on the Note, and no owner of the Note will have the right to compel the exercise of the Town’s taxing power in connection with any default on the Note.

6. Use of Proceeds for Project Costs -- The Town will use the Proceeds only to pay Project Costs until all Project Costs are paid. The Town will apply Proceeds to Project Costs only after it has received approval for the payment of costs from the United States of America – Department of Agriculture – Rural Utilities Service (or any successor agency), as the prospective purchaser of the Bonds. The Town will make available to the registered owner of the Note all records related to the use and investment of Proceeds and the payment of Project Costs as such owner

may reasonably request from time to time.

"Project Costs" means all costs of design, planning, construction, acquisition, installation, equipping and generally carrying out of the water system improvements financed with Proceeds, as determined in accordance with generally accepted accounting principles and as will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Note, including (a) sums required to reimburse the Town or its agents for advances made for any such costs, (b) interest of the Note and Bonds during the term of the Project and for up to six months thereafter, and (c) all costs related to the financing of the Project through the issuance of the Note and the Bonds and all related transactions.

7. *Actions toward Issuance of Bonds* – The Town covenants, for the benefit of the beneficial owners of the Note, that it will act with all due diligence in the undertaking of the Project and otherwise so as to provide for the issuance of the Bonds in a timely manner.

8. *Finance Officer as Registrar; Payments to Registered Owners* -- The Town Council appoints the Town's Finance Officer as Registrar for the Note. As Registrar, the Finance Officer shall maintain appropriate books and records of the ownership of the Note. The Town will treat the registered owner of the Note as the person exclusively entitled to payment of principal and interest and the exercise of all rights and powers of the owner. The Note will be payable at its maturity upon presentation and surrender to the Registrar.

The Registrar will not, however, register the transfer of the Note to any person or entity other than a bank, an insurance company or a similar financial institution unless the LGC has previously approved the transfer.

9. *Direction to Execute Documents* -- The Town Council directs the Mayor, the Town Manager, the Finance Officer and all other Town officers to act on the Town's behalf and to execute and deliver all appropriate documents (the "Documents") for the proposed financing. The execution and delivery of any Document by an authorized officer will be conclusive evidence of that officer's approval of the final form of that Document. The Documents in final form, however,

must be consistent with the financing plan described in this resolution.

10. *Authorization to Town Manager to Complete Closing* – The Town Council directs the Town Manager to take all appropriate action to provide for the issuance of the Note to the Lender in accordance with this resolution. The Town Manager will hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the Town's behalf until the conditions for their delivery have been completed to the Manager's satisfaction, and thereupon will release the executed copies of such documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Town Council specifically authorizes the Town Manager to approve changes to any documents, agreements or certifications previously signed by Town representatives, provided that the changes are not inconsistent with this resolution and do not substantially alter the intent of the instrument from that expressed in the form originally signed. This authorization specifically permits the Town Manager to make further agreements or covenants on behalf of the Town regarding the custody and investment of Proceeds. The Town Manager's authorization of the release of any instrument for delivery will constitute conclusive evidence of his approval of any changes.

In addition, the Town Council authorizes the Town Manager to take all appropriate steps for the efficient and convenient carrying out of the Town's on-going responsibilities with respect to the Note. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under the Note, this resolution or otherwise with respect to the Note.

11. *Authorization for Note Extensions* – If at the time of the maturity of the Note the Town Manager determines that the Town is not in a position to issue the permanent financing Bonds and use those proceeds to pay the principal of the Note, the Town Manager is authorized to negotiate an extension to the maturity of the Note with the Lender. The Town Manager is authorized to execute and deliver any agreements or instruments, and to take any further action, he finds to be appropriate, and in the Town's best interest, to carry out any such modification to

the Note to extend the maturity. For any modification under this authority, however, (a) there must be no increase in the outstanding principal amount of the Note, (b) there must be no increase in the interest rate payable on the Note, (c) there must be no change in the lender to which the Note is payable, and (d) the Note as modified must mature not more than three years from the original dated date of the Note. This authorization is not limited to one modification and extension but includes as many modifications and extensions as the Town Manager finds to be in the Town's best interests.

Nothing in this resolution is intended to imply that the Lender has made any agreement or commitment for an extension. This section is designed only to provide flexibility to the Town should the occasion arise.

12. *Financial Information to Noteholder* – In partial consideration of the Lender's purchase of the Note, the Town promises the Lender that the Town will send to the Noteholder (a) a copy of the Town's audited financial statements for each of the Town's fiscal years promptly upon the Council's acceptance of the financial statements, but in any event within 210 days after the end of each fiscal year, and (b) all other financial information (including, without limitation, the Town's annual budget as submitted or approved) as any Noteholder may reasonably request from time to time.

13. *Limitation on Additional Debt* – The Town will not issue any Bonds, as defined in the Bond Order, or any other obligations secured by a pledge of System Revenues, as defined in the Bond Order, while any portion of the Note is outstanding, without the advance written consent of the Noteholder. This limitation overrides any authority given to the Town in Article II of the Bond Order.

14. *Covenants as to Tax Matters* -- The Town will not take or omit to take any action the taking or omission of which will cause the Note to be an "arbitrage bond," within the meaning of Section 148 of the "Code" (as defined below), or a "private activity bond" within the meaning of Code Section 141, or otherwise cause interest on the Note to be includable in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Town will comply with any Code provision that may require the Town at any time to pay to the United

States any part of the earnings derived from the investment of the Note proceeds. In this resolution, "Code" means the United States Internal Revenue Code of 1986, as amended, and includes applicable Treasury regulations.

15. Note is a "Bank-Qualified" Obligation -- The Town designates the Note as a "qualified tax-exempt obligation" for the purpose of Code Section 265(b)(3), which provides certain tax advantages for financial institutions investing in obligations similar to the Note.

16. Miscellaneous Provisions -- All Town officers and employees are authorized to take all such further action as they may consider necessary or desirable in furtherance of the issuance of the Note and all other purposes of this resolution. The Council ratifies all prior actions of Town representatives to this end. Upon the absence, unavailability or refusal to act of the Town Manager, the Finance Officer, the Mayor or the Town Clerk, any other of such officers may assume any responsibility or carry out any function assigned in this resolution. In addition, the Mayor Pro Tem or any Deputy or Assistant Town Clerk may assume any responsibility or carry out any function assigned to the Mayor or the Clerk, respectively, in this resolution. All other Council proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

ADOPTED this 24th day of February in an unanimous vote of the Weaverville Town Council.

Allan P. Root, Mayor
Town of Weaverville, North Carolina

Approved as to form:

Jennifer O. Jackson, Town Attorney
Town of Weaverville, North Carolina

I certify as follows: that the foregoing resolution (which includes the attached Exhibit A) was properly adopted at a meeting of the Town Council of the Town of Weaverville, North Carolina; that this meeting was properly called and held on February 24, 2020; that a quorum was present and acting throughout the meeting; and that this resolution has not been modified or amended, and remains in full effect as of today.

Dated this 25th day of February, 2020.

[SEAL]

Derek K. Huninghake, Town Clerk
Town of Weaverville, North Carolina

Exhibit A – Sample Form of Note

REGISTERED NOTE NUMBER R-1

March __, 2020

\$2,500,000

**UNITED STATES OF AMERICA
STATE OF NORTH CAROLINA**

TOWN OF WEAVERVILLE

Water Revenue Bond Anticipation Note, Series 2020

THE TOWN OF WEAVERVILLE, NORTH CAROLINA (the "Town"), for value received, acknowledges itself indebted and promises to pay, solely from the Net Revenues and other funds described below and pledged to the payment of this Note, to

**FIRST-CITIZENS
BANK & TRUST COMPANY**

its successors and its registered assigns (the "Noteholder"), the principal sum of

**TWO MILLION FIVE HUNDRED THOUSAND DOLLARS
(\$2,500,000)**

on June 16, 2021, and to pay, solely from such source, to the registered owner of this

Note interest on the unpaid principal from the date of this Note until payment of the entire principal sum at the annual rate of 1.89% (calculated on the basis of a 360-day year consisting of twelve 30-day months, subject to prepayment as provided below.

Principal of and interest on this Note are payable upon presentation and surrender of this Note by the registered owner, or its duly authorized attorney, at the office of the Town's Finance Officer, who has been appointed Registrar, in Weaverville, North Carolina, or at such successor office as the Registrar may designate in writing to the Noteholder. Principal and interest are payable in lawful money of the United States of America.

The Town may prepay principal of this Note in whole, but not in part, at any time upon payment to the Noteholder of the principal amount to be prepaid plus interest accrued to the prepayment date, without penalty or premium.

This Note has been authorized and is issued pursuant to a bond order adopted by the Town's governing Town Council on February 24, 2020 (the "Bond Order Order"), along with a resolution also adopted by the Town Council on February 24, 2020 (the "Note Resolution"), and the Constitution and laws of the State of North Carolina, including The State and Local Government Revenue Bond Act. The Note has been authorized and is issued to provide funds, together with other available funds, to pay capital costs of certain water system improvements in anticipation of the issuance of certain Town water revenue bonds (the "Bonds") previously authorized for this purpose.

This Note is a special obligation of the Town, payable solely from the net operating revenues of the Town's water system (the "Net Revenues," as specifically defined in the Bond Order) and other revenues and funds pledged therefor as provided in the Bond Order and the Note Resolution. Neither the faith and credit nor the taxing power of the Town is pledged for the payment of the principal of or interest on this Note, and no owner of this Note has any right to compel the exercise of the Town's taxing power in connection with any default hereon.

In addition, the proceeds of the Bonds are also pledged for the payment of

this Note, and this Note shall be retired from the Bond proceeds as the first priority.

Reference is made to the Bond Order, the Note Resolution and all amendments and supplements thereto for a description of the provisions, among others, with respect to the nature and extent of the security, the Town's rights, duties and obligations, the Noteholder's rights and the terms upon which this Note is issued, to all of which provisions each Noteholder, by the acceptance of this Note, agrees. The terms and conditions of the Bond Order and the Note Resolution form a part of the contract between the Town and the Noteholder.

The Town may issue additional obligations secured by a lien on Net Revenues, including liens ranking on a parity with the lien on Net Revenues securing this Note, under the terms and conditions set forth in the Bond Order and the Note Resolution.

This Note is fully registered as to both principal and interest. Transfer of this Note may be registered upon books maintained for that purpose by the Registrar. The Registrar will treat the registered owner of this Note as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner. The Registrar will not register the transfer of this Note to any person other than a bank, an insurance company or a similar financial institution unless the North Carolina Local Government Commission has previously approved such transfer.

The Town has designated this Note as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The Town intends that North Carolina law will govern this Note and all matters of its interpretation.

All acts, conditions and things required by the Constitution and laws of the State of North Carolina to happen, exist or be performed precedent to and in the issuance of this Note have happened, exist and have been performed.

IN WITNESS WHEREOF, the Town has caused this Note to be signed by its

Town Manager, its seal to be affixed hereto and attested by its Town Clerk, and this Note to be dated March ___, 2020.

[SEAL]

ATTEST:

**Town of Weaverville,
North Carolina**

[sample only do not sign]

Derek Huninghake
Town Clerk

By: **[sample only do not sign]**

Selena Coffey
Town Manager

[\$2,500,000 Revenue Bond Anticipation Note, Series 2020]

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within Note has been approved under the provisions of The State and Local Government Revenue Bond Act, Article 5, Chapter 159 of the North Carolina General Statutes, as amended.

Local Government Commission of North Carolina

Greg C. Gaskins
Secretary, North Carolina Local Government Commission

By _____
[Greg C. Gaskins or Designated Assistant]

TRANSFER OF NOTE

Transfer of this Note may be registered by the registered owner or its duly authorized attorney upon presentation to the Registrar, who will note the transfer in books kept by the Registrar for that purpose and in the registration blank below.

<u>Date of Re-Registration</u>	<u>Name of New Registered Owner</u>	<u>Signature of Registrar</u>
_____	_____	_____
_____	_____	_____

[\$2,500,000 Water Revenue Bond Anticipation Note, Series 2020, of the Town of Weaverville, North Carolina]

**TOWN OF WEAVERVILLE
BOND ORDER AUTHORIZING WATER REVENUE BONDS,
INCLUDING AN INITIAL REVENUE BOND ISSUE IN THE
MAXIMUM AMOUNT OF \$2,800,000 TO HELP FINANCE THE
WATERLINE EXTENSION PROJECT**

WHEREAS -

The Town of Weaverville has previously determined to acquire, construct and generally carry out (the "Project") certain improvements to the Town's water system, particularly including the construction of water main lines beginning at the existing water main at the north end of Clarks Chapel Road and running along Clarks Chapel Road and Ollie Weaver Road in order to connect with the existing water main on Monticello Road. The Town has also determined to issue revenue bonds to finance a portion of the Project's costs.

The United States of America, acting by and through Rural Utilities Service, an agency of the United States Department of Agriculture, has offered to loan funds to the Town to assist in financing the Project, and the Town has determined to accept the offer.

The Council now desires to adopt this bond order to formally authorize the issuance of Town water revenue bonds from time to time, and in particular to authorize the issuance of revenue bonds to evidence the loan from the United States.

NOW, THEREFORE, BE IT ORDERED by the Town Council of the Town of Weaverville, North Carolina, as follows:

There are hereby ordered to be issued from time to time, pursuant to the North Carolina State and Local Government Revenue Bond Act, water revenue bonds of the Town of Weaverville to pay capital costs of providing water system improvements, together with related financing and other necessary or incidental costs.

In particular there is hereby ordered to be issued, pursuant to the Act, an initial water revenue bond in a principal amount not to exceed \$2,800,000 to provide funds to be used, together with other available funds, to pay costs of providing water system improvements, and in particular Project Costs.

The terms and conditions of the issuance of and security for this initial bond, and all other Town water revenue bonds to be issued under this Bond Order, are as follows:

ARTICLE I

Authorization, Award and Sale of Initial Bond; Form and Details of Bonds

1.01. Authorization of Initial Bond. The Town will issue, under the Act and this Bond Order, its water revenue bond in a principal amount not exceeding \$2,800,000 (the “Initial Bond”) to provide funds to be used, together with other available funds, to finance Project Costs.

1.02. Award and Sale of Initial Bond. The Town determines that it is in the Town’s best interests to accept the Government’s proposal for its purchase of the Initial Bond. The Town asks the LGC to sell the Initial Bond to the Government at a private sale pursuant to the terms of this Bond Order and the proposal previously provided to the Town by the Government.

1.03. Form and Details of Initial Bond. The Town will issue the Initial Bond as a single fully registered bond in a denomination not to exceed \$2,800,000, dated the Closing Date, numbered R-1 and bearing interest at an annual rate not to exceed 4.00%. The Initial Bond will be designated “Water Revenue Bond” and will be in substantially the form of Exhibit A, with such minor changes (including any appropriate changes to the Series designation) not inconsistent with this Bond Order as may be approved by the Government and the officers signing the Initial Bond. This approval will be evidenced conclusively by the Government’s acceptance of the delivery of the Initial Bond and the Government’s payment to (or on behalf of) the Town of the proceeds of the Initial Bond.

1.04. Payments on the Initial Bond.

(a) Installments of principal and interest will be payable on each June 1, beginning on the first June 1 following the Closing Date and continuing on each June 1 thereafter, until the principal of the Initial Bond is paid in full. The payment of every installment will be applied first to interest accrued to the payment date and then to

principal. Interest will be calculated on the basis of a year of 365 days and the actual number of days elapsed.

(b) The principal installments will be payable in such years and amounts as the Finance Officer determines after consultation with the LGC and as may be approved by the Government, except that in any event the final payment on the Initial Bond must be payable not more than 40 years from the Closing Date.

(c) The Finance Officer will execute a certificate prior to the initial delivery of the Initial Bond designating the annual interest rate on, and the final principal payment schedule for, the Initial Bond. This certificate will be conclusive evidence of the Finance Officer's approval and determination of such matters.

(d) Installments will be payable in lawful money of the United States, but only from the Net Revenues and other funds pledged to payment as provided in this Bond Order.

So long as the Government is the registered owner of the Initial Bond, installments will be payable in such fashion, including automatic debiting, as the Government may determine. For any Bonds or portions of Bonds for which the Government is not the registered owner, installments will be payable by check or draft mailed on the payment date to the registered owners at the addresses that appear on the registration books kept by the Registrar, except that the final installment will be payable upon presentation and surrender of Bonds to the Registrar at the Town's office in Weaverville, North Carolina.

1.05. Prepayment of Initial Bond.

(a) The Town may prepay principal installments of the Initial Bond in whole or in part at any time at the Town's option, without prepayment penalty or premium.

(b) Any prepayment will be applied first to any accrued and unpaid interest and then to installments of principal in inverse order of maturity. No prepayment affects the Town's obligation to pay when due the remaining scheduled installments of principal of and interest on the Initial Bond. On any date designated for prepayment, notice having been given and moneys for the payment of the prepayment price being held in trust for such purpose, the Initial Bond or the applicable portions thereof becomes due and payable, and the interest on the Initial

Bond or portions thereof so prepaid will cease to accrue.

(c) For any Bonds or portions of Bonds for which the Government is not the registered owner, the Town must give 30 days' prior written notice of any prepayment to the registered owners, by registered or certified mail, to the addresses shown on the Registrar's registration book. No advance notice is required in connection with any prepayment of Bonds for which the Government is the registered owner.

1.06. Payment of Proceeds of Initial Bond; Use of Proceeds. The Council directs the Finance Officer to determine, in consultation with the LGC, the procedures for the disbursement of the proceeds of the Initial Bond to the Town. The Town may use proceeds of the Initial Bond, including both the original proceeds from the sale of the Initial Bond and earnings from the investment of these proceeds, only to pay Project Costs, including expenses related to the authorization and issuance of the Initial Bond and amounts due on any related Bond Anticipation Notes.

ARTICLE II

Additional Bonds and Other Obligations

2.01. Restriction on Incurring Obligations. The Town will not, without the Government's prior written consent (so long as the Government is the owner of any portion of the Bonds), (a) issue any Bonds, (b) otherwise borrow money from any source, (c) enter into any contract or agreement that is treated for accounting purposes as substantially equivalent to the borrowing of money, or (d) incur any other liabilities, in all cases in connection with the acquisition or construction of improvements, extensions, additional and replacements to, or for any other purpose in connection with, the System, other than with respect to normal operations and maintenance. The Town may incur approved obligations in any form allowed by law.

2.02. Issuance of Additional Bonds; Purposes. The Town may issue Additional Bonds secured by a lien on Net Revenues (a) to finance capital costs of System Improvements, including capital costs of planning or investigating the feasibility of possible System Improvements, or to complete the Project, (b) to refund any Bonds or other Town indebtedness, (c) to prevent an interruption or delay in

payments of principal and interest on Bonds, (d) to establish or maintain reserves or to pay financing costs, or (e) for any combination of such purposes.

2.03. Terms of Additional Bonds. Additional Bonds will be in substantially the form of the Initial Bond, will be dated such date, will mature on such dates in such installments of principal and interest, will bear interest at such rate or rates, will be in such denomination or denominations and may contain such provisions for prepayment prior to their respective maturities, all as provided by the Town by a supplemental bond order or appropriate resolution adopted prior to their issuance (or by an officer's certificated authorized by such a bond order or resolution). Additional Bonds will contain an appropriate series designation.

2.04. Issuance of Revenue Bond Anticipation Notes. The Town may authorize and issue, in anticipation of the receipt of the net proceeds of any Bonds, revenue bond anticipation notes for the purpose to provide funds to pay the cost of the Project or any System Improvements, including related financing costs. The payment of the principal of and interest on any such notes will be secured by a pledge, charge and lien upon the proceeds of any Bonds, if and when issued, and by the pledge of the Net Revenues pursuant to Section 3.02, and otherwise as may be provided for in the proceedings and documents providing for the issuance of the notes. All covenants, obligations and agreements of the Town contained in this Bond Order are covenants, obligations and agreements of the Town with the owners of any notes.

2.05. Refinancing. The Town will refinance the unpaid principal balance of any Bonds as to which the Government is the Holder upon the Government's request, if at any time it appears to the Government that the Town is able to do so with funds obtained from responsible private sources at reasonable rates and terms for loans for similar purposes and periods of time.

ARTICLE III

Security, Production and Use of Revenues

3.01. Bonds are Special Obligations. The Bonds are special obligations of the Town, payable solely from the Net Revenues and other funds pledged to payment as provided in this Bond Order. Neither the Town's faith and credit nor its taxing power is pledged for any payment on the Bonds, and no owner of any Bond has any right to

compel the exercise of the Town's taxing power in connection with any default on any Bond.

3.02. Pledge of Revenues. All System Revenues are trust funds and are hereby pledged to the payment of the principal of, and interest and any premium on, the Bonds, subject only to the Town's right to apply them to other purposes as provided by law and in this Bond Order. All System Revenues as received by the Town are immediately subject to the lien of this pledge without any further act on the part of the Town or otherwise, and to the extent permitted by law the lien of this pledge has priority over any and all other Town obligations and liabilities.

3.03. Agreement To Apply Net Revenues. The Town will apply the Net Revenues to the payment of the Bonds as the payments become due as provided in this Bond Order.

3.04. Covenant as to Rates and Charges. The Town covenants and agrees that, subject to any applicable requirements of law or regulation, it will fix and revise (from time to time and as often as it will appear necessary) Service Charges in order to produce Net Revenues in each Fiscal Year in an amount not less than the sum of (a) 100% of the Debt Service Requirement for that Fiscal Year with respect to Bonds, (b) 100% of the Debt Service Requirement for that Fiscal Year with respect to Other Debt Obligations, and (c) 100% of any deposits required for that Fiscal Year to the Debt Service Reserve Fund or the Short-Lived Asset Reserve Fund.

Within 30 days after the adoption of any revision to the schedule of Service Charges, the Town will send certified copies of the new schedule to the Government.

The Town further covenants that if the Net Revenues in any Fiscal Year are less than the amount required by this Section, the Town will request from an Appropriate Consultant recommendations regarding (a) revision of the schedule of Service Charges and (b) improvements in the operation of or services rendered by the System. The Town will file copies of the request and the resulting recommendations with the LGC and the Government. Anything in this Bond Order to the contrary notwithstanding, if the Town substantially complies with the recommendations, then any failure to comply with the rate covenant in this Section will not in itself constitute a default under this Bond Order.

3.05. Creation of Funds. There are hereby created and designated the

following special funds:

- (a) Revenue Fund;
- (b) Operating Fund;
- (c) Debt Service Fund;
- (d) Debt Service Reserve Fund;
- (e) Short-Lived Asset Reserve Fund; and
- (f) Capital Reserve Fund.

The Town shall maintain these Funds separately on its books and records for so long as any Bonds are Outstanding. The Town shall hold each Fund, and the moneys in each Fund, in trust, and shall apply those moneys as provided in this Article. Moneys in each Fund are pledged to the payment of all Bonds, subject only to the right to apply those funds to other purposes as provided by law and in this Bond Order, and subject to the exclusions specified in Sections 3.10 and 3.11.

3.06. Application of System Revenues.

(a) The Town shall deposit all System Revenues in the Revenue Fund as soon as practicable.

(b) If no Event of Default is continuing, the Town shall hold the System Revenues in the Revenue Fund and from such amounts, from time to time and as often as may be appropriate, pay all Operating Expenses, make all payments when due on the Bonds and the Other Debt Obligations, and make deposits to the Capital Reserve Fund as the Town deems appropriate.

The Town shall also make in each Fiscal Year (i) a deposit to the Debt Service Reserve Fund in an amount equal to 1/10 of the Debt Service Reserve Requirement and (ii) a deposit to the Short-Lived Asset Reserve Fund in an amount equal to the Annual Short-Lived Asset Reserve Requirement. These deposits must begin in the Fiscal Year following the Fiscal Year in which the first principal payment is due on the Initial Bond, and continue until the amount on deposit in each such Fund is equal to

its respective Requirement. The Town in each Fiscal Year must also make deposits to the Debt Service Reserve Fund and the Short-Lived Asset Fund necessary to restore amounts withdrawn from those Funds as specified in Sections 3.10 and 3.11. No other transfers provided for in Section 3.07, however, are required.

(c) If an Event of Default is continuing, the Town shall each month apply the amounts on deposit in the Revenue Fund as provided in Section 3.07. These monthly transfers shall only be required during the continuation of any such Event of Default.

3.07. Withdrawals from the Revenue Fund. The Town shall, on or before the 20th day of each month, beginning in the month following the month in which the Project is placed in service, withdraw from the Revenue Fund an amount equal to the amount of all moneys held for the credit of that Fund on the last day of the preceding month and deposit such sum to the credit of the following Funds in the following order:

(a) to the credit of the Operating Fund, such amount as may be necessary to raise the amount on deposit to the credit of the Operating Fund to an amount equal to (i) the amount necessary to pay Operating Expenses through that month that have not yet been paid plus (iii) the amount necessary to pay Operating Expenses through the following month, in each case as shown by the Annual Budget;

(b) to the credit of the Debt Service Fund, such amount as may be required to make the total amount then to the credit of such Fund equal to the amount of the principal and interest then due or to become due and payable on the Bonds and the Other Debt Obligations within the next twelve months;

(c) to the credit of the Debt Service Reserve Fund, until the amount on deposit therein is equal to the Debt Service Reserve Requirement, an amount equal to 1/120 of the Debt Service Reserve Requirement;

(d) to the credit of the Short-Lived Asset Reserve Fund, until the amount on deposit therein is equal to the required amount, an amount equal to 1/12 of the amount to be deposited to that Fund in the Fiscal Year; and

(e) to the credit of the Capital Reserve Fund the balance, if any, remaining after making the deposits stated above;

provided, however, that if the amount deposited in any month to the credit of any Fund mentioned in Section 3.05 is less than the required amount, the requirement therefor shall be cumulative, and the amount of any deficiency in any month shall be added to the amount otherwise required to be deposited to the credit of such Fund in each month thereafter until the deficiency is resolved.

3.08. Application of Moneys in Debt Service Fund.

(a) The Town will hold all moneys in the Debt Service Fund in trust for the payment of the principal of and the interest on the Bonds and the Other Debt Obligations. No amounts may be withdrawn from or paid out of such Fund for any other purpose without the Government's prior written consent.

(b) The Town shall, from time to time and as often as may be appropriate, withdraw moneys from the Debt Service Fund to make payments when due of the principal of and interest on the Bonds and the Other Debt Obligations. In the case of any deficiency in the Debt Service Fund to pay Bonds, the Town shall apply the available amounts to its obligations (i) considering the relative parity status of the payment obligations and (ii) in accordance with the principles described in Section 7.11.

3.09. Application of Moneys in Debt Service Reserve Fund.

(a) The Town may use moneys held for the credit of the Debt Service Reserve Fund to make full and timely payment of principal and interest on the Initial Bond, and any other Bonds secured by a lien on the Debt Service Reserve Fund, whenever and to the extent that the moneys held for the credit of the Debt Service Fund are insufficient for that purpose.

(b) In addition, the Town may use moneys held for the credit of the Debt Service Reserve Fund for emergency maintenance, for extensions to facilities, or for any other lawful purpose, but only with the prior written consent of the Government and the Majority Owners.

(c) The Town must restore any moneys withdrawn from the Debt Service Reserve Fund from available moneys in the Revenue Fund, as promptly as practicable and in any event within one year of withdrawal unless the Government consents otherwise. The Town shall value the balance in the Debt Service Reserve Fund at least

annually as of each June 30, and if at any time the amount held for the credit of the Debt Service Reserve Fund exceeds the Requirement, the Town shall within 30 days after the valuation date, (i) transfer the excess to the credit of the Capital Reserve Fund or the Revenue Fund, or (ii) use the excess to make prepayments on the Bonds, in any case as the Town may elect.

(d) Notwithstanding any other provision of this Bond Order, amounts on deposit from time to time to the credit of the Debt Service Reserve Fund are pledged solely to the payment of the Initial Bond, unless (i) the pledge is explicitly extended to any other obligations by resolution or other action of the Town Council and (ii) the Government consents (if the Government remains the Holder of any Bonds).

3.10. Application of Short-Lived Asset Reserve Fund.

(a) The Town may use moneys held for the credit of the Short-Lived Asset Reserve Fund for the maintenance and replacement of short-lived assets that have a useful life significantly less than the repayment period of the Initial Bond. It is the Town's responsibility to assess its system's short-lived asset need on a regular basis. Withdrawal for any other use requires the Government's prior written consent.

(b) The Town must restore any moneys withdrawn from the Short-Lived Asset Reserve Fund from available moneys in the Revenue Fund, as promptly as practicable and in any event within five years of withdrawal unless the Government consents otherwise.

(c) Notwithstanding any other provision of this Bond Order, amounts on deposit from time to time to the credit of the Short-Lived Asset Reserve Fund are not pledged to the payment of any Bonds.

3.11 Application of Capital Reserve Fund.

(a) The Town may at any time withdraw moneys held for the credit of the Capital Reserve Fund (i) to pay for System Improvements or to pay Operating Expenses, or (ii) with the Government's consent, for any other lawful purpose.

(b) Notwithstanding any other provision of this Bond Order, amounts on deposit from time to time to the credit of the Capital Reserve Fund are not pledged to the payment of any Bonds.

ARTICLE IV

Particular Covenants

4.01. Payment of Bonds; Observance of Covenants. The Town will pay promptly, as provided in this Bond Order, the principal of, premium, if any, and interest on each of the Bonds, together with any other payments due with respect to the Bonds, but these amounts are payable solely from the Net Revenues and other funds pledged in this Bond Order. The Town covenants that it shall faithfully do and perform and at all times fully observe all covenants, undertakings, stipulations and provisions contained in this Bond Order or in the Bonds.

4.02. Construction of Project and System Improvements. The Town covenants that it will diligently proceed to complete the Project and any System Improvements in accordance with plans and specifications approved by Appropriate Consultants and in conformity with law and all requirements of all governmental authorities having jurisdiction. The Town shall pursue and complete construction and completion in good faith, with due diligence, and in a commercially reasonable manner.

The Town shall require each person, firm or corporation with which it may contract for labor or materials in connection with the construction of the Project or any System Improvements (a) to furnish a performance bond as required by law to insure completion and performance of such contract, and (b) to carry such workers' compensation, employers' liability insurance and builders' risk insurance as may be required by law or recommended to the Town by an Appropriate Consultant. In the event of any default under any such contract and the failure of the surety to complete the contract, the Town will promptly apply the proceeds of any such performance bond toward the completion of the contract in connection with which such performance bond has been furnished.

4.03. Operation and Maintenance. The Town will at all times (a) operate the System properly and in a sound and economical manner, (b) properly maintain, preserve and keep the System in good repair, working order and condition, and (c) from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals, so that at all times the operation of the System may be properly and advantageously conducted.

4.04. Rules, Regulations and Other Details. The Town will establish and enforce reasonable rules and regulations governing the operation, use and services of the System. All compensations, salaries, fees and wages paid by the Town in connection with the maintenance, repair and operation of the System will be reasonable. The Town will observe and perform, or will cause to be observed and performed, all of the terms and conditions contained in the Act. The Town will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the System or the Town.

The Town further covenants as follows:

(a) it may require the owner, tenant or occupant of each lot or parcel of land within the Town that is obligated to pay Service Charges to make a reasonable advance deposit with the Town to insure the payment of Service Charges and to be subject to application to the payment of Service Charges if and when delinquent;

(b) if any Service Charges are not paid within thirty days after the same become due and payable, then, to the extent permitted by law, the Town will disconnect the premises from the System, and the Town may proceed to recover by appropriate legal action the amount of any such delinquent Service Charges;

(c) it will not render, or cause to be rendered, any free services of any nature by the System, nor will it establish preferential rates between users of the same class; and

(d) to the extent legally allowed, it will not consent to the furnishing of, or permit any person whatsoever to furnish, public water services within the Town except in areas wherein the System is unable economically to serve the occupants and properties.

4.05. Payment of Lawful Charges.

(a) The Town will pay all taxes and assessments or other municipal or governmental charges lawfully levied or assessed upon or in respect of the System or upon any part of the System.

(b) The Town will pay or cause to be discharged, or make adequate provision to satisfy and discharge, all lawful claims and demands for labor, materials, supplies

or other objects which, if unpaid, might by law become a lien upon the System (or any part of the System) or upon System Revenues. The Town will provide for this payment or discharge within 60 days after the lien or claim accrues. Nothing in this Section, however, requires the Town to pay or discharge, or make provision for, any lien or charge so long as the Town is contesting the lien or charge in good faith and by appropriate proceedings.

4.06. Insurance and Reconstruction. The Town covenants that it will obtain and maintain insurance, with reasonable terms, conditions, provisions and costs, that the Town determines will afford appropriate protection against insurable risks in connection with the System and its operation. All insurance policies must be carried with a company or companies properly authorized and qualified under State law.

The Town will apply the proceeds of all insurance covering damage to or destruction of the System to the repair, replacement or reconstruction of the damaged or destroyed property. If the proceeds are more than sufficient for that purpose, the Town will deposit any balance to the credit of the Capital Reserve Fund. If the proceeds are insufficient, the Town may supply any deficiency from moneys in the Capital Reserve Fund. The Town will deposit all proceeds of any insurance covering loss of System Revenues to the credit of the Revenue Fund.

4.07. Annual Budget. The Town will develop an Annual Budget for each Fiscal Year in a manner consistent with State law. The Town will prepare its Annual Budget so that it will be possible to determine the budgeted System Revenues and the budgeted Operating Expenses.

If for any reason the Town has not adopted the Annual Budget before the first day of any Fiscal Year, the budget for the preceding Fiscal Year will be deemed to be in force until the adoption of the new Annual Budget. The Town may at any time adopt an amended or supplemental Annual Budget for the remainder of the then-current Fiscal Year.

The Town covenants that the Operating Expenses incurred in any Fiscal Year will not exceed the reasonable and necessary amount, and that the Town will not expend any amount or incur any obligations for maintenance, repair and operation in excess of the amounts provided for Operating Expenses in the current Annual Budget. Nothing in this Section limits the amount which the Town may expend for Operating Expenses in any Fiscal Year, provided that the amounts expended are properly

accounted for as to both revenues and expenses in the Annual Budget.

4.08. Records, Books and Audits. The Town will keep the funds of the System separate from all other Town funds. The Town will keep accurate records and accounts of (a) all items of cost and of all expenditures relating to the System, (b) the collection of System Revenues, and (c) the application of System Revenues. These records and accounts will at all times during normal business hours be open to the inspection of the LGC and the Holders.

The Town further covenants that within 120 days after the close of each Fiscal Year, it will cause (i) an audit to be made of its books and accounts relating to the System by an independent certified public accountant selected by the Town, and (ii) an annual report of System operations to be prepared, such annual report to cover the matters usually contained in annual reports for similar systems. Within 30 days after its receipt of the audit and annual report, the Town will mail copies to the LGC, to the Government (so long as the Government is the Holder of any Bonds) and, upon request, to each Identifiable Bondholder.

Each audit report must be prepared in accordance with generally accepted accounting principles and must set forth in respect of the preceding Fiscal Year, among other matters, the System Revenues and Operating Expenses, all deposits or transfers to the credit of and all withdrawals from each special fund created under this Bond Order, the amounts on deposit at the end of such Fiscal Year to the credit of each such special fund (including the details of any investment of those funds), and a balance sheet for the System. The audit report must also state the accountants' findings as to (a) whether the moneys received by the Town under this Bond Order have been applied in accordance with the provisions of this Bond Order, (b) whether any obligations for Operating Expenses were incurred in excess of the amounts appropriated in the Annual Budget, and (c) whether the Town is in default in the performance of any of the covenants contained in Article III. The audit must also include a calculation of compliance for the Fiscal Year with the rate covenant stated in Section 3.04.

The Town further covenants that within 180 days after the end of each of the Town's Fiscal Years, the Town will file with the LGC a certificate signed by a Town Representative stating (A) whether there existed at the end of such Fiscal Year any violation of any covenants or agreements of the Town contained in this Bond Order, including any supplement or amendment, and (B) whether at any time during the

Fiscal Year any default occurred under this Bond Order, and if so, the nature of the default.

4.09. No Sale or Encumbrance.

(a) The Town will not sell, lease or otherwise dispose of or encumber the System or any part thereof except (i) in connection with an Installment Financing that places a lien on some or all of the financed System Assets, (ii) with the consent of one hundred percent of the Holders, or (iii) as provided in (b) below.

(b) The Town may, from time to time, sell or otherwise dispose of property forming part of the System, including machinery, fixtures, apparatus, tools, instruments or other movable property, as the Town may determine is not needed in connection with the maintenance and operation of the System. The Town will apply all proceeds from any sale, lease or disposition System Assets to the replacement of the properties so sold or otherwise disposed of, or will deposit the proceeds to the credit of the Capital Reserve Fund.

4.10. Creation of Liens on Revenues. The Town will not create or permit to be created any charge or lien on the Net Revenues ranking equally with or prior to the charge or lien on the Net Revenues of the Bonds unless in conformity with the provisions of this Bond Order or otherwise required by applicable law or regulation.

4.11. Instruments of Further Assurance. The Town covenants that at any and all times it will, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further orders, resolutions, acts, conveyances, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting and confirming all and singular the rights, System Revenues and other funds hereby pledged or intended so to be, or which the Town may hereafter become bound to pledge or as may be reasonable and required to carry out the purposes of this Bond Order and comply with the Act. The Town will at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Revenues and all the rights of the Holders against all claims and demands of all persons whomsoever.

4.12. Security for Deposits. The Town shall provide that all moneys held under this Bond Order in excess of the amounts guaranteed by the Federal Deposit Insurance Corporation (or any other similar federal agency) are continuously

secured, for the benefit of the Town and the Holders of the Bonds, in such manner as may then be required by applicable State law or regulation.

4.13. Investment of Funds. The Town will, as nearly as may be practicable, continuously invest and reinvest moneys held for the credit of the Funds and accounts created under this Bond Order which mature, or which are subject to redemption by the holder thereof at the option of such holder, not later than the respective dates when such moneys will be required for the purposes intended and in the case of the Debt Service Reserve Fund, not later than three years after the date of the investment.

Obligations and certificates of deposit purchased as investments of moneys in any Fund will be deemed at all times to be part of that Fund. The interest accruing thereon and any profit realized therefrom will be credited to such Fund, and any loss resulting therefrom will be charged to such Fund. The Town will sell at the best price obtainable or present for redemption any obligations so purchased whenever it will be necessary so to do in order to provide moneys to meet any payment or transfer from any such Fund. Neither the Town nor any Town Representative will be liable or responsible for any loss resulting from any such investment. To determine the amount on deposit to the credit of any Fund, obligations in which moneys in that Fund have been invested will be valued at the lower of cost or market value.

ARTICLE V

Default and Remedies

5.01. Events of Default. The following will be Events of Default:

(a) The Town fails to pay principal of or interest on any of the Bonds, or of any other amount payable with respect to any of the Bonds.

(b) The Town breaches or fails to perform or observe any term, condition or covenant of this Bond Order on its part to be observed or performed, other than as referred to in subsection (a), for a period of 30 days after written notice specifying that failure and requesting that it be remedied has given to the Town by any Bondholder, unless the Town is diligently working toward a remedy of the default and the Bondholder agrees in writing to an extension of such time (which consent must not be unreasonably withheld).

(c) The occurrence of an Act of Bankruptcy.

(d) Any event of default occurring with respect to any Bonds not otherwise provided for in this Bond Order.

5.02. Remedies. Upon the occurrence and continuation of an Event of Default, the Government (whether or not it qualifies as the Majority Owner) or the Majority Owners at their option may:

(a) declare the entire unpaid principal amount of the Bonds then Outstanding and accrued interest thereon to be immediately due and payable;

(b) incur and pay such reasonable expenses for the Town's account as may be necessary to cure the cause of any default (with the Town being then obligated to repay such amounts); and

(c) proceed to protect and enforce their rights under the Bonds and this Bond Order by a suit, action or special proceeding at law or in equity, either for the specific performance of any covenant or agreement or execution of any power or for the enforcement of any proper legal or equitable remedy as may be deemed most effectual to protect and enforce such rights, including, without limitation, the fixing of rates and the collection and proper application of the System Revenues.

Notwithstanding any other provision of this Bond Order, the right of any owner of a Bond to receive payment of principal of and interest on its Bonds on or after the respective due dates expressed in the Bond, or to bring suit for the enforcement of any such payment on or after such respective dates, may not be impaired or affected without the owner's consent.

5.03. No Remedy Exclusive; Delay Not Waiver. All remedies under this Bond Order are cumulative and may be exercised concurrently or separately. The exercise of any one remedy will not be deemed an election of such remedy or preclude the exercise of any other remedy. If any Event of Default occurs and is thereafter waived, that waiver will be limited to the particular breach so waived and will not be deemed a waiver of any other breach under this Bond Order.

5.04. Notice of Default. The Town will mail to the LGC and to each Identifiable Bondholder written notice of the occurrence of any Event of Default as

soon as reasonably possible and in any event within thirty days after the Town has notice that any such event of default has occurred.

5.05. Appointment of Trustee.

(a) At any time during the continuation of an Event of Default, any Bondholder may appoint a trustee (the “Trustee”) to serve as a fiduciary for all Bondholders. The Town shall adopt any amendments or supplements to this Bond Order as may be reasonably requested by any Bondholder or the putative Trustee to effect such appointment.

(b) Any Trustee must be a corporation organized and doing business under the laws of the United States or any state or the District of Columbia that is (i) authorized by law to exercise corporate trust powers in the State, (ii) is subject to supervision or examination by the United States, any state or the District of Columbia, (iii) has a combined capital and surplus of at least \$100,000,000 as set forth in its most recent published annual report of condition, and (iv) is acceptable to the LGC and the Government, if the Government is the Holder of any Bonds.

(c) Any Trustee must exercise the rights and powers granted to it with the same degree of care and skill in their exercise that a prudent person would exercise or use under the circumstances and in the conduct of that person’s own affairs. Any Trustee must act for the collective benefit of all Bondholders.

The Majority Owners may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee, however, may refuse to follow any direction that conflicts with law or this Bond Order, is unduly prejudicial to the rights of other Bondholders, or would involve the Trustee in personal liability.

(d) In addition to any remedies to the Trustee under this Bond Order (or any other agreement pursuant to which Bonds have been or may be issued or secured), or under State and federal law, during the continuation of an Event of Default any Trustee may:

- (i) require the Town immediately to pay to such Trustee all amounts in the Town’s possession representing System Revenues;

- (ii) require the Town to endorse all checks and other negotiable instruments representing System Revenues to the order of the Trustee immediately upon the receipt thereof and to deliver such endorsed instruments daily to the Trustee; and
- (iii) notify any or all account debtors of the Town to pay any amounts representing System Revenues, when due and owing, directly to the Trustee, as Trustee, at any address in the United States designated by the Trustee.

(e) Any Trustee may resign by notifying the Town and the Bondholders. The Majority Owners may remove the Trustee by notifying the Trustee and the Town. A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Majority Owners may appoint a successor Trustee.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee or the owners of at least 10% in principal amount of the Bonds Outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee, as well as to the Town, the LGC and all Identifiable Bondholders. Thereupon the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Bond Order. The successor Trustee will mail notice of its succession to the Bondholders. The retiring Trustee will promptly transfer all trust property held by to the successor Trustee.

(f) After a Trustee has taken office pursuant to this Section, then a Trustee must always be in office until either (i) there are no Bonds Outstanding or (ii) the Government, the LGC and the Majority Owners all agree to rescind the Trustee's appointment.

ARTICLE VI

Supplemental Orders

6.01. Without Consent of Holders. The Town may amend this Bond Order in any respect prior to the delivery of the Initial Bond.

The Town may, from time to time and at any time following delivery of the Initial Bond, adopt supplemental orders not inconsistent with the terms and provisions of this Bond Order (which supplemental orders will thereafter form a part of this Bond Order):

(a) to cure any ambiguity or formal defect or omission, or to correct any inconsistent provisions in this Bond Order or in any supplemental order, or

(b) to grant to or confer upon the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders, or

(c) to add additional conditions, limitations and restrictions on the issuance of Bonds under this Bond Order, or

(d) to add to the Town's covenants and agreements in this Bond Order or to surrender any right or power reserved to or conferred upon the Town.

At least fifteen days prior to the adoption of any supplemental order for any of the purposes set forth in the immediately preceding paragraphs of this Section, the Registrar, at the Town's expense, will cause a notice of the proposed adoption of such supplemental order to be mailed, postage prepaid, to the LGC and to each Identifiable Bondholder. The notice will briefly set forth the nature of the proposed supplemental order and state that copies are on file at the Registrar's office for inspection by all Holders.

6.02. With Consent of Holders. The Majority Owners have the right, from time to time, to consent to and approve the adoption of such supplemental order or orders as the Town may deem desirable to modify, alter, amend, add to or rescind, in any particular, any of the terms or provisions contained in this Bond Order or in any supplemental order.

Nothing in this Bond Order, however, permits (a) an extension of the maturity of the principal of or the interest on any Bond without the consent of the Holder of that Bond, or (b) a reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon without the consent of the Holder of that Bond, or (c) the creation of a lien upon or a pledge of System Revenues other than the lien and pledge created by this Bond Order without the consent of the Holders of all Bonds Outstanding, or (d) a preference or priority of any Bond over any other Bond without the consent of the Holders of all Bonds Outstanding, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to any supplemental order without the consent of the Holders of all Bonds Outstanding.

6.03. Obtaining Consents. If at any time the Town determines that it is necessary or desirable to adopt any supplemental order for any of the purposes of Section 6.02, the Registrar, at the Town's expense, will cause notice of the proposed adoption of the supplemental order to be mailed, postage prepaid, to each Holder of Bonds at the addresses appearing on the registration books. The notice will briefly set forth the nature of the proposed supplemental order and will state that copies are on file at the Registrar's Office for inspection by all Holders. The Registrar will not, however, be subject to any liability to any Holder by reason of its failure to cause the notice required by this Section to be mailed, and no such failure affects the validity of the supplemental order when consented to and approved as provided in this Section.

Bonds owned or held by or for the account of the Town shall not be deemed Outstanding and shall be excluded for the purpose of any consent or any calculation provided for in this Article.

Whenever, at any time within one year after the date of the first mailing of a notice, the Town delivers to the Registrar an instrument or instruments in writing purporting to be executed by the Majority Owners, which instrument or instruments refer to the proposed supplemental order described in the notice and specifically consent to and approve its adoption in substantially the form identified in the notice, thereupon, but not otherwise, the Town may adopt the supplemental order in substantially that form, without liability or responsibility to any Holder of any Bond, whether or not any particular Holder has consented.

If the Majority Owners consent to and approve the adoption of a supplemental order as provided above, no Holder of any Bond has any right to object to the adoption of the supplemental order, or to object to any of its terms or to its operation, or in any

manner to question the propriety of its adoption, or to enjoin or restrain the Town from adopting the same or from taking any action pursuant to its provisions.

Upon the adoption of any supplemental order pursuant to the provisions of this Section, this Bond Order will be conclusively modified and amended in accordance therewith. The respective rights, duties and obligations under this Bond Order of the Town, the Registrar and all Holders of Bonds shall thereafter be determined, exercised and enforced in all respects under the provisions of this Bond Order as so modified and amended.

Bonds delivered after the effective date of any action taken as provided in this Article may bear a notation by endorsement or otherwise in form approved by the Town and Registrar as to such action. If the Town and Registrar shall so determine, new Bonds modified to conform to any such action shall be prepared, authenticated and delivered to the Holder of any Bond then Outstanding without cost to such Holder in exchange for and upon surrender of such Outstanding Bonds.

6.04. Amendment with Unanimous Consent. Notwithstanding anything contained in the foregoing provisions of this Article, the terms and provisions of this Bond Order or any order supplemental hereto and the rights and obligations of the Town and of the Holders of the Bonds may be modified or amended in any respect upon the adoption by the Town of an order to that effect, and the filing with the Town and the LGC of the written consent of Holders of all the Outstanding Bonds. No subsequent notice to Holders is required.

6.05. Government Consent Required. For so long as the Government is the registered owner of any portion of the Bonds, the Town may amend this Bond Order after the issuance of the Initial Bond only with the Government's consent.

ARTICLE VII

Miscellaneous Provisions

7.01. Contract with Bondholder. The provisions of this Bond Order constitute a contract between the Town and the Bondholders for so long as any Bonds are Outstanding.

7.02. Execution of Bonds. Each Bond will be signed by the manual or

facsimile signature of the Town's Mayor or Town Manager and the Town's seal (or a facsimile thereof) will be affixed thereto and attested by the manual or facsimile signature of the Town Clerk (or any Assistant Clerk). In addition, each Bond will carry a certificate of the LGC as provided by the Act. No Bond will be valid, however, unless at least one of the signatures appearing on the Bond (which may be the signature of the LGC's representative) is manually applied or until the Bond has been authenticated by the manual signature of an authorized officer or employee of an independent Registrar selected by the Town.

7.03. Registration and Transfer of Bonds; Restrictions on Transfer. The Registrar shall maintain records for the registration of ownership and transfers of the Bonds. The Registrar will transfer the record of ownership of any Bond only upon surrender of the Bond to the Registrar, with the Bond accompanied by an assignment duly executed by the Holder or its attorney or legal representative in such form as is satisfactory to the Registrar. Upon any registration of transfer, the Town shall execute, and the Registrar shall deliver in exchange for such Bond, a new Bond of the same series registered in the name of the transferee and in an aggregate principal amount equal to the unpaid principal amount of the transferred Bond, having maturities corresponding to the principal installments of the transferred Bond and bearing interest at the same rate.

The Town and the Registrar shall process any Bond transfer as soon as practicable upon receipt of a request for re-registration. The Town and the Registrar may make a charge for every transfer of Bonds sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the transfer, but may not make any additional charge. Neither the Town nor the Registrar is required to make any such registration of transfer of Bonds during the fifteen days immediately preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, after a notice of redemption has been sent to the registered owner.

The Registrar will not register the transfer of any Bonds, or any portion of any Bonds, to any person other than a bank, an insurance company or a similar financial institution unless the LGC has previously approved the transfer.

7.04. Ownership of Bonds. The Registrar shall treat the registered owner of each Bond as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner, and payment of or on account

of the principal of and the interest on any such Bond shall be made only to the Holder thereof or its legal representative. In the case of Bonds not registered to the Government, however, (a) the Town will make payments of principal and interest to the person shown as the registered owner as shown on the record books at the end of the calendar day on the 15th day of the month preceding the payment date (whether or not a business day), and (b) the final installment will be payable on presentation and surrender as provided for in Section 1.04.

7.05. Mutilated, Lost, Stolen or Destroyed Bonds.

(a) If any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Town shall execute and deliver a replacement Bond, of the same tenor as the damaged, mutilated, lost, stolen or destroyed Bond, in the manner provided below.

(b) A Bondholder must apply to the Town for exchange and substitution of damaged, mutilated, lost, stolen or destroyed Bonds. An applicant for a replacement Bond must furnish to the Town such security or indemnity as the Town may require to save it harmless and must also comply with the requirements of Section 159-37 of the General Statutes. In every case of loss, theft or destruction of a Bond, the applicant must also furnish evidence to the Town's satisfaction of the loss, theft or destruction. In the case of damage or mutilation of a Bond, the applicant must surrender the damaged or mutilated Bond.

(c) Notwithstanding the foregoing, if any Bond has matured, and no default is then continuing in the payment of the principal of or interest on the Bond, the Town may pay the same (without surrender of the Bond except in the case of a damaged or mutilated Bond) instead of issuing a substitute Bond, provided security or indemnity is furnished as provided above in the case of a lost, stolen or destroyed Bond.

(d) The Town shall charge the Holder of such Bond with all expenses in connection with the issuance of any substitute Bond. Every substitute Bond issued pursuant to the provisions of this Section because any Bond is lost, stolen or destroyed, whether or not the lost, stolen or destroyed Bond may be found at any time, or may be enforceable by anyone, will be entitled to all the benefits of this Bond Order equally and proportionally with any and all other Bonds duly executed and delivered under this Bond Order.

7.06. Cancellation. The registered owners of all Bonds paid, redeemed or purchased either at or before maturity, shall, at the Town's direction, deliver those Bonds to the Registrar or to the Town when such payment, redemption or purchase is made. The Registrar shall then cancel and destroy those Bonds. The Registrar shall keep a record of all Bonds so destroyed.

7.07. Unclaimed Moneys. The Town shall hold in trust for the respective Holders of Bonds all moneys which the Town has set aside for the purpose of paying any of the Bonds, whether at maturity or upon call for redemption. The Town shall treat any moneys which have been set aside and remained unclaimed by the Holders of such Bonds for the period of five years after the date on which such Bonds have become payable will be treated as abandoned property pursuant to the provisions of Section 116B-18 of the North Carolina General Statutes, or any successor provision, and the Town shall report and remit this property to the Escheat Fund according to the requirements of Article 3 of Chapter 116B of the North Carolina General Statutes, or any successor provision. Thereafter the Holders of such Bonds may look only to the Escheat Fund for payment, and then only to the extent of the amounts so received without any interest thereon, and the Town has no responsibility with respect to such moneys.

7.08. Resolutions as to Tax Matters. The Town shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds," within the meaning of Code Section 148, or "private activity bonds" within the meaning of Code Section 141, or otherwise cause interest on the Bonds to be includable in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Town will comply with any Code provision that may require the Town at any time to pay to the United States any part of the earnings derived from the investment of the proceeds of the Bonds.

7.09. Initial Bond Is a "Bank-Qualified" Obligation. The Town designates the Initial Bond as a "qualified tax-exempt obligation" for the purpose of Code Section 265(b)(3), which provides certain tax advantages to financial institutions that purchase obligations like the Initial Bond. The Council authorizes the Finance Officer and all other County officers to confirm, or refute, this designation by appropriate certifications delivered in connection with the original issuance of the Initial Bond.

7.10. Discharge of Bond Order. If, when the Bonds secured by this Bond Order have become due and payable in accordance with their terms or have been duly

called for redemption and the whole amount of the principal and the interest and premium, if any, so due and payable upon all of the Bonds then Outstanding has been paid, then and in that case the right, title and interest of the Holders of the Bonds secured hereby in the System Revenues and funds mentioned in this Bond Order shall thereupon cease, terminate and become void. The Town may then apply any and all balances remaining in any funds to any lawful purpose as the Town may determine.

7.11. Payments When Funds are Insufficient. Anything in this Bond Order to the contrary notwithstanding, if at any time moneys are insufficient to pay the interest on or the principal of the Bonds as the same become due and payable (either by their terms or by acceleration of maturities), all moneys in the Debt Service Fund and Debt Service Reserve Fund, together with any moneys then available or thereafter becoming available for such purpose, shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied

first: to the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest; if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on that installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Bond Order), in the order of their due dates, with interest on such Bonds from the respective dates upon which they became due; if the amount available is not sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or preference; and

third: to the payment of the interest on and the principal of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of this Bond Order.

(b) If the principal of all the Bonds has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid on the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds has been declared due and payable and if the declaration is thereafter rescinded, then the moneys remaining in and thereafter accruing to the Debt Service Fund and the Debt Service Reserve Fund are to be applied in accordance with the provisions of paragraph (a) of this Section.

7.12. Effect of Town's Undertakings. All of the covenants, stipulations, obligations and agreements contained in this Bond Order are covenants, stipulations, obligations and agreements of the Town to the full extent permitted by law, and all such covenants, stipulations, obligations and agreements are binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements may be transferred in accordance with law.

7.13. Notices. Any communication provided for in this Bond Order must be in writing (not to include facsimile transmission or electronic mail). Any communication under this Bond Order will be deemed given on the delivery date shown on a United States Postal Service certified mail receipt or a delivery receipt (or similar evidence) from a national commercial package delivery service.

If the notice is intended for the Town, it must be addressed as follows: Town of Weaverville, Attention Town Manager, Re: Notice under Water Revenue Bond Order, Post Office Box 338, Weaverville, NC 28787. The Town may designate an additional or alternate address for notices by notice given under this Bond Order.

If this Bond Order calls for the Town to send any notice to the Government, the Town will send a copy of that notice to every Identifiable Bondholder, even if the Government is no longer the Holder of any Bonds at the time for giving the notice.

The Town shall promptly upon receipt send a copy of any notice or other communication so sent or received by it to the LGC at the following address: North Carolina Local Government Commission, Attention: Secretary of the Commission, Re: Notice for Town of Weaverville -- Water Revenue Bond, Longleaf Building, 3200 Atlantic Ave., Raleigh, NC 27604. If the LGC designates to the Town a different address for notices, then the Town will use that different address.

7.14. Consents. Any consent of the Government provided for under this Bond Order must be in writing.

7.15. Execution of Instruments by Holders and Proof of Ownership of Bonds. Any request, direction, consent or other instrument in writing required or permitted by this Bond Order to be signed or executed by Holders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Holders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds will be sufficient for any purpose of this Bond Order, and will be conclusive in favor of the Registrar with regard to any action taken by it under such instrument, if in accordance with the registration books.

Any request or consent of the Holder of any Bond will bind every future Holder of the same Bond in respect of anything done by the Registrar pursuant to that request or consent.

7.16. Interested Parties. Except as otherwise expressly provided in this Bond Order, nothing in this Bond Order expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town, the Registrar and the Bondholders any right, remedy or claim, legal or equitable, under or by reason of this Bond Order or any provision hereof, this Bond Order and all its provisions being intended to be and being for the sole and exclusive benefit of the Town and the Bondholders.

7.17. Indemnification. To the extent permitted by law, the Town shall indemnify, defend, protect and save the Bondholders and all their representatives harmless from all liability, obligations, losses, claims, damages, actions, suite, proceedings, costs and expenses, including legal fees and expenses, arising out of, connected with, or resulting directly or indirectly from the Project or the System or

the transactions contemplated by this Bond Order, including without limitation, the possession, condition, construction or use of the Project or the System. The Town's obligation for indemnification under this Section survives the payment of the Bonds in full.

7.18. Limitation of Officials' Liability. No covenant, condition or agreement contained in this Bond Order will be deemed to be a covenant, agreement or obligation of a present or future member, officer, employee or agent of the Town or the LGC in such person's individual capacity. No Town or LGC officer will be liable personally on any Bonds or be subject to any personal liability or accountability by reason of the issuance of Bonds. No Town or LGC officer, employee or agent will incur any personal liability with respect to any other action taken by such person pursuant to this Bond Order, provided such person acts in good faith. No recourse may be had by any Bondholder for any claims based on this Bond Order or otherwise against the LGC or any member, officer, employee or agent of the LGC in such person's individual capacity, with all such liabilities, if any, being expressly waived and released.

7.19. Severability. The provisions of this Bond Order are severable. If any court holds any provision of this Bond Order to be invalid and unenforceable, that holding will not invalidate any other provision of this Bond Order.

7.20. Governing Law; Venue. The Town intends that North Carolina law will govern the Bonds, this Bond Order and all matters of their interpretation. To the extent permitted by law, this Bond Order requires that any action brought with respect to this Bond Order must be brought in the North Carolina General Court of Justice in Buncombe County, North Carolina.

7.21. Headings. Any article or section headings in this Bond Order are solely for convenience of reference, and are not intended to affect its meaning, construction or effect.

7.22. Authority and Mandate of Officers. The Town's officers and agents are hereby directed to do all the acts and things required of them by the Bonds and this Bond Order for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the Bonds and this Bond Order.

7.23. Conditions Precedent. Upon the issuance of the Initial Bond all acts conditions, and things required by the Constitution and statutes of the State or this

Bond Order to happen, exist and to be performed precedent to or in the issuance of the Initial Bond will have happened, exist and have been performed.

7.24. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right is not a Business Day, the payment may be made or act performed or right exercised on or before the next succeeding Business Day. For this Bond Order, a “Business Day” is any day on which banks in the State are not by law authorized or required to remain closed.

7.25. Definitions; Rules of Interpretation. For the purposes of this Bond Order, terms with initial capital letters not otherwise defined have the meanings assigned to them in Exhibit B. This Bond Order should be interpreted in accordance with the rules stated at the end of Exhibit B.

7.26. Town Officials To Complete Closing. (a) The Council authorizes the Town Manager and all other Town officers to take all appropriate action to complete the issuance of the Initial Bond to the Government in accordance with this Bond Order. The Council authorizes the Town Manager to hold executed copies of all financing documents authorized or permitted by this Bond Order in escrow on the Town’s behalf until the conditions for their delivery have been completed to such officer's satisfaction, and thereupon to release the executed copies of such documents for delivery to the appropriate persons or organizations.

(b) Without limiting the generality of the foregoing, the Council specifically authorizes the Town Manager to approve changes to any agreements and any certifications previously signed by Town officers or employees, provided that such changes do not conflict with this Bond Order or substantially alter the intent of such documents from that expressed in the form originally signed. The Town Manager’s authorization of the release of any such document for delivery will constitute conclusive evidence of such officer’s approval of any such changes.

(c) In addition, the Council authorizes the Town Manager to take all appropriate steps for the efficient and convenient carrying out of the Town’s on-going responsibilities with respect to the Bonds. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under the Bonds, this Bond Order or otherwise with respect to the Bonds.

(d) The Council authorizes all Town officers and employees to take all such

further action as they may consider necessary or desirable in furtherance of the issuance of the Initial Bond and the purposes of this Bond Order. All such prior actions of Town officers and employees are ratified. Upon the absence, unavailability or refusal to act of the Mayor, the Town Manager, the Clerk or the Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this Bond Order. In addition, the Vice Mayor or any Deputy or Assistant Town Clerk may assume any responsibility or carry out any function assigned to the Mayor or the Clerk, respectively, in this resolution.

7.27. Contract with Bondholder. The provisions of this Bond Order constitute a contract between the Town and the Bondholders for so long as any Bonds are Outstanding.

7.28. Effective Date; Repealer. This Bond Order takes effect immediately. All other Council proceedings, or parts thereof, in conflict with this Bond Order are repealed to the extent of the conflict.

ADOPTED this 24th day of February in an unanimous vote of the Weaverville Town Council.

Allan P. Root, Mayor
Town of Weaverville, North Carolina

Approved as to form:

Jennifer O. Jackson, Town Attorney
Town of Weaverville, North Carolina

Exhibit A --- Form of Initial Bond

Registered Bond without Coupons

(Registered as to both principal and interest)

No. R-1

\$2,800,000

UNITED STATES OF AMERICA

STATE OF NORTH CAROLINA

TOWN OF WEAVERVILLE

Water Revenue Bond, Series 20XX

The Town of Weaverville, North Carolina (the “Town”), for value received, hereby acknowledges itself indebted and promises to pay, solely from the Net Revenues and other funds described below and pledged to the payment hereof, to the

UNITED STATES OF AMERICA

**UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT**

(the “Government”), its successors and its registered assigns (the “Bondholder”), the principal sum of

**TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS
(\$2,800,000)**

in annual installments on June 1 in years and amounts as follows:

Year (June 1)	Principal Amount (\$)	Year (June 1)	Principal Amount (\$)
(to come)			

subject to prepayment as described below, together with interest on the unpaid principal from the date of this Bond until payment of the entire principal sum at the annual rate of 4.00%, such interest being payable on June 1, 20XX, and annually thereafter on each June 1.

In all events, (1) all payments on this Bond will be applied first to interest accrued and unpaid to the payment date and then to principal, and (2) if not sooner paid, the entire principal of and interest on this Bond will be due and payable on June 1, 20XX.

While the Government is the registered owner of this Bond, the Town may prepay principal of this Bond, in whole or in part at any time at the Town's option, without premium or penalty. Any prepayment will be applied first to any accrued and unpaid interest and then to installments of principal in inverse order of maturity. No prepayment in any way affects the Town's obligation to pay when due the remaining scheduled installments of principal of and interest on this Bond. On any date designated for prepayment, this Bond (or the applicable portions of this Bond) becomes due and payable, and the interest on this Bond, or the portion prepaid, ceases to accrue, so long as notice has been given and moneys for the payment of the prepayment price are being held in trust for that purpose as provided in the Bond Order, as defined below.

Because this Bond allows for partial prepayment, **the actual principal amount outstanding on this Bond may be different from the amount determined by reference to the principal payment schedule stated above.**

This Bond is issued pursuant to a bond order adopted by the Town's governing Town Council on February 24, 2020 (the "Bond Order"). This Bond is issued to provide funds, to be used together with other available funds, to pay costs of the

acquisition and construction of improvements to the Town's public water system, particularly including water line extensions.

This Bond is a limited obligation of the Town, payable as to both principal and interest solely from the Net Revenues (as defined in the Bond Order) and other funds pledged to that payment as provided in the Bond Order. Nothing in this Bond or in the Bond Order creates or constitutes a pledge of the faith and credit of the State of North Carolina or of any county, city, town or other political subdivision of the State.

Reference is made to the Bond Order, and to any amendments or supplements to the Bond Order, for a description of the provisions, among others, with respect to the nature and extent of the security, the Town's rights, duties and obligations, the Bondholder's rights and the terms upon which this Bond is issued, to all of which provisions each Bondholder, by the acceptance of this Bond, agrees. A copy of the Bond Order is on file with the Town Clerk at the Town's office in Weaverville, North Carolina.

The Town may issue additional obligations secured by a pledge of Net Revenues, including obligations secured equally and ratably with this Bond, from time to time under the conditions, limitations and restrictions stated in the Bond Order.

This Bond is registered as to both principal and interest. The Town's Finance Officer has been appointed Registrar for the Bond and charged with the responsibility for maintaining appropriate registration books and records indicating ownership of the Bond. The Town will treat the registered owner of this Bond as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

The registered owner of this Bond may register the transfer of the ownership of this Bond only by delivery to the Registrar of an assignment, in form and substance reasonably acceptable to the Registrar, that has been executed by the registered owner or its duly authorized attorney or legal representative. Upon receipt of such an assignment, the Registrar will register this Bond as to both principal and interest on the Town's registration books in the name of the transferee named in the assignment.

The Registrar will not, however, register the transfer of this Bond, or any portion of this Bond, to any person other than a bank, an insurance company or a

similar financial institution unless the North Carolina Local Government Commission has previously approved the transfer. In addition, the Registrar is not required to make any registration of transfer during the fifteen days immediately preceding an interest payment date on the Bond or after any notice of a redemption has been sent to the registered owner.

So long as the Government is the registered owner of this Bond, the Town will pay principal and interest in whatever fashion, including automatic debiting, as the Government may designate. For any portions of this Bond for which the Government is no longer the registered owner, the Town will pay principal and interest by check or draft mailed on the payment date to the registered owner of this Bond at its address as it appears on the registration books kept by the Registrar, except that the final installment will be payable upon presentation and surrender of this Bond to the Registrar as described in the Bond Order at the Town's office in Weaverville, North Carolina.

Principal and interest are payable in lawful money of the United States of America. Interest is calculated on the basis of the actual number of days elapsed and a year of 365 days.

[The Town has designated this Bond as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.]

The Town intends that North Carolina law will govern this Bond and all matters of the interpretation of this Bond and the Bond Order.

All acts, conditions and things required by the Constitution and laws of the State of North Carolina to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed, and the issue of Bonds of which this Bond is one, together with all other Town indebtedness, is within every debt and other limit prescribed by the Constitution and laws of the State of North Carolina.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, the Town has caused this Bond to be signed by its Town Manager, its seal to be affixed to this Bond and to be attested by its Town Clerk, and this Bond to be dated _____, 20XX.

<p>[SEAL]</p> <p>ATTEST:</p> <p><i><u>[do not sign - specimen only]</u></i> Town Clerk</p>	<p>TOWN OF WEAVERVILLE, NORTH CAROLINA</p> <p>By: <i><u>[do not sign - specimen only]</u></i> Town Manager</p>
--	---

[\$2,800,000 Water Revenue Bond, Series 20XX]

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within Bond has been approved under the provisions of The State and Local Government Revenue Bond Act, Article 5, Chapter 159 of the North Carolina General Statutes, as amended.

Local Government Commission of North Carolina

Greg C. Gaskins
Secretary, North Carolina
Local Government Commission

By _____
[Greg C. Gaskins or Designated Assistant]

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner of this Bond hereby sells, assigns, and transfers unto _____ the within bond and all rights thereunder and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signed: _____
Registered Owner

NOTICE: The assignor’s signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatever.

**[\$2,800,000 Water Revenue Bond, Series 20XX,
of the Town of Weaverville, North Carolina]**

Exhibit B – Definitions; Rules of Interpretation

Whenever used in this Bond Order, unless a different meaning clearly appears from the context:

“Act” means The State and Local Government Revenue Bond Act, constituting Article 5 of Chapter 159 of the General Statutes of North Carolina, as amended.

"Act of Bankruptcy" means (a) the Town’s filing of a voluntary petition for relief under any bankruptcy or similar law, (b) the Town’s admission of insolvency, or the Town’s general failure to pay its debts as they become due, (c) the filing of an involuntary petition for relief against the Town as a debtor under any bankruptcy or similar law, and the Town’s failure to have such petition dismissed within 30 days of its filing, or (d) the filing of any petition for the appointment of a receiver for the System or the System Revenues, or any similar petition, and the Town’s failure to have such petition dismissed within 30 days of its filing.

"Additional Bonds" means any bonds or other obligations secured in whole or in part by a lien on Net Revenues that ranks on a parity with the lien on Net Revenues securing the Initial Bond.

“Annual Budget” means any budget or amended budget of Operating Expenses adopted or in effect pursuant to Section 4.07.

“Annual Short-Lived Asset Reserve Requirement” means \$3,467, plus any additional amounts required by supplements or amendments to this Bond Order.

“Appropriate Consultant” means one or more independent persons having (at the time retained for the purposes of this Bond Order) a favorable reputation for skill and experience in an appropriate area of expertise, as the Town may select to carry out the duties imposed on an Appropriate Consultant by this Bond Order.

“Bond” or “Bonds” means any bond or bonds authorized by this Bond Order, and includes the Initial Bond and any Additional Bonds, and also includes any Bond Anticipation Notes.

“Bond Anticipation Notes” means any notes issued under the authority of Section 2.04.

“Bondholder” or “Holder” or any similar term, when used with reference to an Outstanding Bond or Bonds means any person who is the registered owner of that Bond or those Bonds.

“Bond Order” means this Bond Order, as it may be from time to time properly amended or supplemented.

“Capital Reserve Fund” means the account so designated by Section 3.05.

“Closing Date” means the date the Initial Bond is first delivered to the Government in exchange for the purchase price thereof.

“Code” means the Internal Revenue Code of 1986, as amended, including all related Treasury Regulations.

“Debt Service Fund” means the account so designated by Section 3.05.

“Debt Service Requirement” means, with respect to any Fiscal Year, the amount required to pay the principal of and interest on the Bonds and the Other Debt Obligations in that Fiscal Year, the computation of such amount to be based on the assumptions that (a) all principal will be paid according to its stated maturities or mandatory redemption requirements and (b) if any obligation bears interest at a variable rate, the rate is the ceiling rate. For any Bond Anticipation Note, the “Debt Service Requirement” is to be calculated only on the basis of the interest due in such Fiscal Year, so long as there is no existing default on the payment of principal of that Bond Anticipation Note.

“Debt Service Reserve Fund” means the account so designated by Section 3.05.

“Debt Service Reserve Requirement” means a sum equal to the average amount payable on the Initial Bond for principal and interest in the then-current or any future Fiscal Year, plus any additional amounts required by supplements or amendments to this Bond Order.

“Event of Default” means any of the events specified in Section 5.01.

“Finance Officer” means the Town’s statutory finance officer.

"Fiscal Year" means Town's Fiscal Year beginning July 1 of each calendar year and ending the following June 30, or such other Fiscal Year as Town may later lawfully establish, and also includes the period from the Closing Date to the next succeeding June 30.

"General Obligation System Bonds" means bonds or other debt obligations of the Town, whether now Outstanding or issued later, the proceeds of which are or have been used to finance the acquisition or construction of any portion of the System, and that are secured by a pledge of the Town's full faith and credit.

"Government" means the United States of America, acting by and through Rural Utilities Service, an agency of the United States Department of Agriculture, as the initial purchaser of the Initial Bond, or any governmental successor to the functions of such agency.

"Identifiable Bondholder" means (a) the Government, so long as the Government is the registered owner of any Bonds, and (b) any Holder who has filed with the Registrar a request in writing setting forth such Holder's name and address and the particular reports, notices or other documents which the Holder desires to receive and which are to be mailed to the Holder under the provisions of this Bond Order.

"Initial Bond" means the Town's \$2,800,000 water revenue bond issued as the initial bond under this Bond Order pursuant to Article I.

"Installment Financing" means any installment financing, lease-purchase or other obligation incurred or contracted by the Town to finance the acquisition or construction of System Assets, but excludes any obligations expressly secured by any lien on Net Revenues.

"Legal Investments" means any investments permitted to the Town under Section 159-30 of the General Statutes of North Carolina, as amended, or any successor provision.

"LGC" means the North Carolina Local Government Commission, or any successor to its functions.

“Majority Owners” means any registered owner or group of registered owners of Bonds that together own a majority by Outstanding principal amount of the Bonds.

“Net Revenues” for any particular period means the amount of the excess of System Revenues over Operating Expenses for such period.

"Operating Expenses" means the Town’s reasonable and necessary current expenses of operation, maintenance and repair of the System as determined in accordance with generally accepted accounting principles, except that “Operating Expenses” does not include any allowance for depreciation or any payment of interest on borrowed money. By way of illustration and without limiting the generality of the foregoing, “Operating Expenses” includes all ordinary and usual expenses of operation, maintenance and repair of the System (which may include expenses not annually recurring), premiums for insurance, administrative and engineering expenses relating to operation, maintenance and repair of the System, costs or expenses related to the issuance of Bonds or other financing for the System, any taxes, fees and charges which may be lawfully imposed on the System and operating lease payments.

“Other Debt Obligations” means any debt obligations incurred after the date of the adoption of this Bond Order and in accordance with this Bond Order for the purposes and benefit of the System, other than Bonds. “Other Debt Obligations” may include General Obligation System Bonds, Subordinate Bonds, revenue bond anticipation notes issued pursuant to Section 2.04 and any Installment Financings.

“Outstanding,” when used with reference to Bonds, or “Bonds Outstanding,” means all Bonds which have been delivered by the Town and not yet paid, except the following:

(a) Bonds cancelled or purchased by or delivered to the Town for cancellation;

(b) Bonds that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment of which, including interest accrued to the due date, the Town or a fiduciary holds sufficient moneys; and

(c) Bonds in lieu of which others have been authenticated and exchanged pursuant to Section 7.02.

"Project" means the Town's undertaking of improvements to its public water system, all as previously approved by the Town.

"Project Costs" means all costs of the engineering, design, planning, construction, acquisition, installation, equipping and general carrying out of the Project, as determined in accordance with generally accepted accounting principles, and that will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, including (a) sums required to reimburse the Town for its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Project through the Bonds and all related transactions.

"Registrar" means the Town's Finance Officer or any successor agent for the maintenance of registration books reflecting ownership of the Bonds as the Town Council may appoint.

"Revenue Fund" means the account so designated by Section 3.05.

"Service Charges" means rates, fees and charges, including service, connection and other charges assessed or imposed, for the use of, and for the services and facilities furnished or to be furnished by the System, as prescribed or fixed by the Town.

"Short-Lived Asset Reserve Fund" means the account so designated by Section 3.05.

"State" means the State of North Carolina.

"Subordinate Bonds" means both (a) any bonds, notes or other obligations of the Town for purposes of the System that are secured by a lien on Net Revenues which is expressly made subordinate to the lien on Net Revenues securing the Bonds, and (b) obligations incurred by the Town to the State as part of the State's water or wastewater revolving loan funds (as now or hereafter constituted, and by whatever name designated). The term "Subordinate Bonds" does not include any Installment Financing.

"System" means all the Town's plants, systems, facilities, equipment or other

assets, including both real and personal property, used or useful in the collection, supply, storage, treatment and distribution of water, as a collective, and "System Assets" are the individual additions, acquisitions, improvements, betterments, land, buildings, structures or other facilities, including equipment, acquired or constructed, and the preparation and grading of land, relating to the System.

"System Improvements" means any construction, reconstruction, improvement, enlargement, betterment or extension of the System.

"System Revenues" means all moneys received by the Town in connection with or as a result of the Town's ownership or operation of the System, including all moneys received in payment of Service Charges and any investment income, as determined in accordance with generally accepted accounting principles, and expressly including the proceeds of any insurance covering business interruption loss relating to the System, "System Revenues" expressly do not include the proceeds of any borrowing for payment of the costs of, or grants or donations intended for, specific System Improvements.

"Town" means the Town of Weaverville, North Carolina, or any successor to its functions.

"Town Council" means the Town's governing body as from time to time constituted.

"Town Representative" means the Mayor or the Finance Officer, or any other person or persons at the time designated, by a written certificate of the Town signed by the Mayor and containing the specimen signature of such person or persons, to act on the Town's behalf for the purpose of performing any act (or any specified act) under this Bond Order.

All references in this Bond Order to designated "Sections" and other subdivisions are to the designated sections and other subdivisions of this Bond Order. The words "hereof" and "hereunder" and other words of similar import refer to this Bond Order as a whole and not to any particular Section or other subdivision unless the context indicates otherwise. Words importing the singular number will include the plural number and vice versa. The term "including" should be understood to mean "including, but not limited to."

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: Monday, February 24, 2020

Subject: Setting a Public Hearing on a Proposed Text Amendment to Permit Mixed Use Structures with Standards in the C-1, C-2 and R-12 Zoning Districts

Presenter: Planning Director

Attachments: Planning and Zoning Board Recommendation; Proposed Text Amendment; Staff Report

Description:

Staff has prepared a proposed text amendment to achieve the stated goals of the comprehensive land use plan of “consider land use regulation that provides for transition districts” and “consider land use regulation that better provides for mixed use development.” The Planning and Zoning Board has reviewed said text amendment and offered a unanimous positive recommendation to Town Council related to the proposed text amendment.

Action Requested:

Staff is seeking the setting of a public hearing before Town Council on Monday, March 23 at 6:45pm, or at such time as Council reaches the matter, for the aforementioned text amendment.



**Town of Weaverville
Planning and Zoning Board**

On Tuesday, February 4, 2020 the Planning and Zoning Board reviewed and unanimously recommended to Town Council the attached proposed text amendment which formally permits with standards certain mixed use development with the Town's C-1, C-2 and R-12 zoning districts. Mixed use development is currently only allowed as a conditional zoning district. The text amendment recommended would allow for a more expedited approval process and developmental certainty for mixed use projects that can meet the standards proposed.

It has been found that the proposed text amendment is consistent with the Town's Comprehensive Plan in that the plan calls for language related to a transitional district and mixed use development as follows:

Consider land use regulation that provides for transition districts; and consider land use regulation that better provides for mixed use development.

The Planning and Zoning Board considers approval both reasonable and in the public interest as the Town's Strategic Plan sets specific objectives of "consider a zoning district to serve as a transition between residential and commercial districts" and "consider mixed use development regulation as a means of expanding development in areas with geographic limitations" under the overall goal of promoting a successful downtown.

Gary Burge
Chairman, Planning and Zoning Board

Sec. 36-5. - Definitions of specific words and terms.

Mixed-use building or development. A multi-story building or structure which may accommodate both commercial and residential uses. A group of mixed-use buildings or structures can be combined to form a mixed-use development.

Sec. 36-104. - Notes on table of uses.

Notes:

1. See article V (section 36-116 et seq.) for additional standards for those uses identified on the Table of Uses as "permitted with standards."
2. If a proposed use can't be found on the table of uses herein established or is not specifically defined herein, then the regulations and restrictions governing the use which most closely resembles the proposed use shall apply.
3. The abbreviations and symbols shown in the Table of Uses have the following meanings:

"C" = Conditional Zoning District required

"P" = Permitted

"PS" = Permitted with Standards

"-" = Not Permitted

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
MISCELLANEOUS USES							
Mixed-Use Building or Structure	-	-	-	€ PS	€ PS	€ PS	-

Sec. 36-140. – Mixed-Use Building or Structure.

- (a) Additional Standards applicable only within the R-12 zoning district for uses defined mixed use building or structure.
1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
 2. The dimensional requirements for the R-12 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
 3. In no case shall the number of dwelling units exceed 12 units per acre.
 4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
 5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
 6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.
 - e. Enclosures shall contain gates to allow for access and security.
 - f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.
- (b) Additional Standards applicable only within the C-1 zoning district for uses defined mixed use building or structure.

1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 Zoning District.
 2. In no case shall the number of dwelling units exceed 4 units per building notwithstanding the latter permissible density bonus for additional off street parking places provided.
 3. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
 4. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
 - a. A waiver of the foregoing requirement may be achieved in writing from the Town Manager or their designee upon showing of good cause. Factors for consideration include but are not limited to available space on the subject property, or any variable related to the public health or safety.
 5. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - b. All containment areas shall be enclosed to contain windblown litter.
 - c. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - d. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - e. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
 - f. Enclosures shall contain gates to allow for access and security.
 - g. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - h. Enclosures shall be landscaped in accordance with article VI of Chapter 36.
 6. Within the C-1 Zoning District additional dwelling units may be permitted up to a maximum of eight dwelling units per building provided the property owner provide off street parking in addition to those spaces required by Article VII of this Chapter at a ratio of two spaces per additional dwelling unit.
- (c) Additional Standards applicable only within the C-2 zoning district for uses defined mixed use building or structure.

1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
2. The dimensional requirements for the C-2 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
3. In no case shall the number of dwelling units exceed 8 units per acre.
4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
 - e. Enclosures shall contain gates to allow for access and security.
 - f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.

Town of Weaverville, North Carolina

Staff Report: Mixed Use Development / Transitional District

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

Strategic Plan

Through the adoption of the Town’s strategic plan, 2018-2021 Strategic Plan in Brief attached hereto, Town Council set a goal of promoting a successful downtown. Specific objectives toward this end were identified as “consider a zoning district to serve as a transition between residential and commercial districts” and “consider mixed use development regulation as a means of expanding development in areas with geographic limitations.”

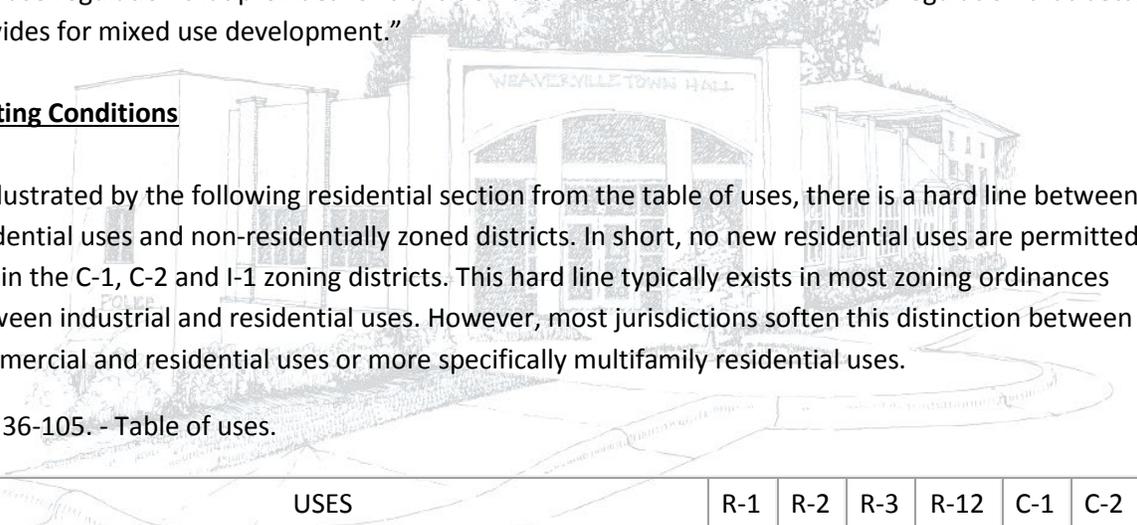
Comprehensive Land Use Plan

Language related to a possible transition district and mixed use development is largely brought forth from the previously adopted strategic plan which Town Council adopted in November, 2018. The aforementioned goals contained within the strategic plan transitioned to the stated goals of “consider land use regulation that provides for transition districts” and “consider land use regulation that better provides for mixed use development.”

Existing Conditions

As illustrated by the following residential section from the table of uses, there is a hard line between residential uses and non-residentially zoned districts. In short, no new residential uses are permitted within the C-1, C-2 and I-1 zoning districts. This hard line typically exists in most zoning ordinances between industrial and residential uses. However, most jurisdictions soften this distinction between commercial and residential uses or more specifically multifamily residential uses.

Sec. 36-105. - Table of uses.



USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
RESIDENTIAL							
Dwelling - Single Family	P	P	P	-	■	■	■
Dwelling - Duplex	-	P	P	P	■	■	■
Dwelling - Multifamily (4 or fewer units/building)	-	P	P	P	■	■	■

Town of Weaverville, North Carolina
**Staff Report: Mixed Use Development /
 Transitional District**

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

Dwelling - Multifamily (more than 4 units/building)	-	-	PS	PS	■	■	■
Dwelling - Secondary	PS	PS	PS	-	■	■	■
Family Care Home (6 or fewer residents)	P	P	P	-	■	■	■
Child Care Home (6 or fewer children)	PS	PS	PS	-	■	■	■
Home Occupation	PS	PS	PS	PS	■	■	■
Manufactured Home	-	-	PS	-	■	■	■
Manufactured Home Park	-	-	-	-	■	■	■
Recreational Vehicle	-	-	-	-	■	■	■
Recreational Vehicle Park, Campground	-	-	-	-	■	■	■
Bed & Breakfast	P	P	P	-	■	■	■
Hotel, Motel, Inn	-	-	-	-	■	■	■

It's also fair to recognize that a mixed use building or structure is acknowledged by the zoning ordinance and is defined and regulated as follows. Conditions are present for the Planning and Zoning Board and Town Council to analyze mixed use development on an individual project basis through conditional zoning districts.

Mixed-use building or development. A multi-story building or structure which may accommodate both commercial and residential uses. A group of mixed-use buildings or structures can be combined to form a mixed-use development.

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
------	-----	-----	-----	------	-----	-----	-----

Town of Weaverville, North Carolina
**Staff Report: Mixed Use Development /
 Transitional District**

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

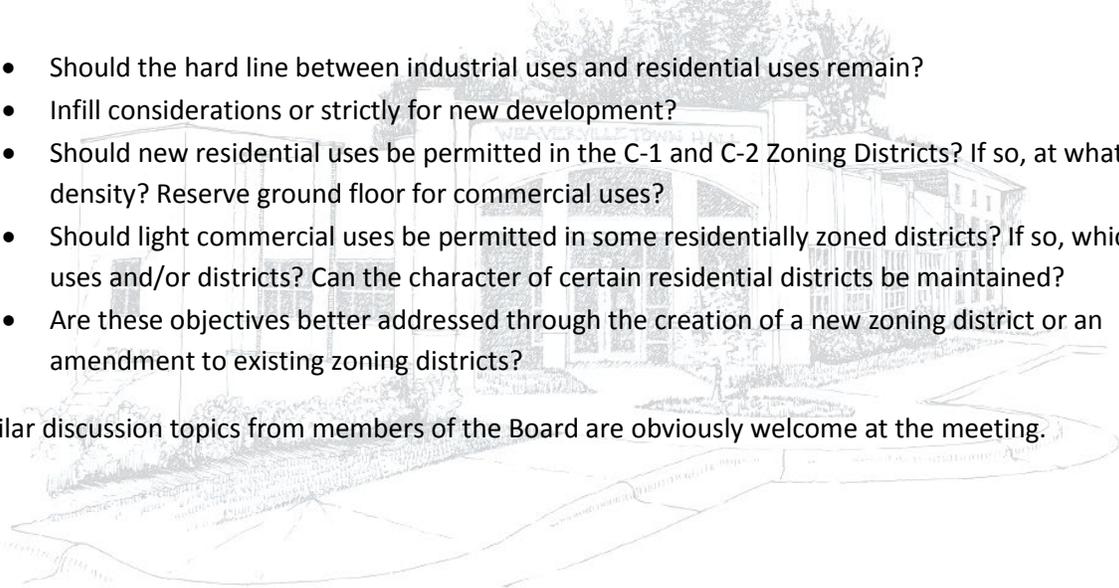
MISCELLANEOUS USES							
Mixed-Use Building or Structure	-	-	-	C	C	C	-

Direction to Staff

Staff intends to address a number of topics in an effort to gain some consensus moving forward in drafting language related to the content of the conversation. These topics include but are not limited to the following...

- Review of mixed use development and areas identified for future mixed use development on the future land use map within the Comprehensive Land Use Plan. (pgs. A-2, A-3 of CLUP)
- Should the hard line between industrial uses and residential uses remain?
- Infill considerations or strictly for new development?
- Should new residential uses be permitted in the C-1 and C-2 Zoning Districts? If so, at what density? Reserve ground floor for commercial uses?
- Should light commercial uses be permitted in some residentially zoned districts? If so, which uses and/or districts? Can the character of certain residential districts be maintained?
- Are these objectives better addressed through the creation of a new zoning district or an amendment to existing zoning districts?

Similar discussion topics from members of the Board are obviously welcome at the meeting.



Goal 1: Provide town services to meet the needs of the community.



- Objective A: Develop consensus on water and annexation growth and develop policies consistent with that consensus.
- Objective B: Revisit the relationship with *Asheville Redefines Transit* to consider re-establishment of bus route given new residential development within the Town.
- Objective C: Enhance the Town's outreach to educate the public about the Town's services.
- Objective D: Recognize the needs of each Town department in serving an ever-changing and growing population.

Goal 2: Improve regional collaboration.



- Objective A: Strengthen relationship with the Asheville-Buncombe Economic Development Coalition and other economic development organizations.
- Objective B: Recognize water as a regional resource and identify regional jurisdictions that wish to partner in water production, sale and distribution.
- Objective C: Consistent involvement and collaboration with neighboring and regional jurisdictions in functional areas, such as police, fire, water resources, etc.
- Objective D: Distribute information regarding regional programs, services and resources available to town citizens.

Goal 3: Maintain balance in land use planning efforts.



- Objective A: Development of tools to encourage balanced residential economic development.
- Objective B: Update economic development goals for the Town.
- Objective C: Update the Town's Comprehensive Land Use Plan.
- Objective D: Investigate options for geographic information systems.

Goal 4: Promote a successful downtown.



- Objective A: Consider a zoning district to serve as a transition between residential and commercial districts.
- Objective B: Develop a mechanism to expand business opportunities along the central business district.
- Objective C: Consider mixed-use development regulation as a means of expanding development in areas with geographic limitations.
- Objective D: Provide information resources marketing downtown and its walkability.
- Objective E: Research grant opportunities for all Town operations and projects, as well as for downtown efforts.
- Objective F: Act as a liaison between downtown churches and businesses to identify available parking downtown.

Goal 5: Increase legislative outreach.



- Objective A: Engage legislative representatives regarding the Town's needs.
- Objective B: Consider opportunities for potential special legislation as Town needs dictate.

Town of Weaverville
Town Council Agenda Item

Date of Meeting: Monday, February 24, 2020
Subject: Town Manager's Report
Presenter: Town Manager
Attachments: Monthly Manager's Report

Description:

Attached please find the monthly Town Manager's report, which will be briefly reviewed at the upcoming Town Council meeting.

Action Requested:

No action necessary.



Town Manager's Monthly Report

Selena D. Coffey, MPA, ICMA-CM

February 2020

- 1) **Citizens Academy:** Enthusiasm for the 2020 Citizens Academy has been great! We've had three additional residents sign up for the Academy and our current class is very energetic and enthusiastic!
- 2) **March 10 Workshop:** As a reminder, Town Council's next workshop, on March 10 at 6:00pm, is a joint meeting with the Planning & Zoning Board.
- 3) **ADA Evaluation & Transition Plan:** Included in this fiscal year's budget are funds to pay for an Americans with Disabilities Act (ADA) evaluation and transition plan. We are required to have this performed based on 1991 enacted legislation, which is Title II of the Americans with Disabilities Act. This legislation imposes requirements on state and local governments to assure that they do not discriminate in the provision of services on the basis of disability. The two areas of primary focus of the legislation are a review of 1) policies and practices and 2) accessibility. This self-evaluation and transition plan will be performed by Withers Ravenel and staff will be facilitating at least one public input workshop for our residents to participate in this process. I anticipate that we will begin the project during the month of March.

Town of Weaverville
Town Council Agenda Item

Date of Meeting: Monday, February 24, 2020
Subject: 2020 Census Presentation
Presenter: Chuck Megown, Census Specialist
Attachments: None

Description:

As the Census quickly approaches, the Buncombe County Complete Count Committee is increasing efforts to raise awareness regarding Census benefits to the community, key dates, and changes to the process. In order to help in getting the word out, Federal Census Partnership Specialist, Chuck Megown, will be at Town Council's meeting to provide a brief presentation and answer questions.

Action Requested:

No action required.

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Update on Greenway Project
PRESENTER: Doug Dearth
ATTACHMENTS: None

DESCRIPTION/SUMMARY OF REQUEST:

Town Manager Coffey and Doug Dearth have been working with Buncombe County staff on the Reems Creek Greenways Project, including their review of proposals on the preliminary design, and will be at tonight's meeting to provide Town Council with an update.

COUNCIL ACTION REQUESTED:

None

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: Monday, February 24, 2020

Subject: Public Hearing on a Proposed Text Amendment to Create a Technical Review Committee

Presenter: Planning Director

Attachments: Proposed Text Amendment Ordinance

Description:

Staff has prepared a text amendment to achieve a stated goal of the comprehensive land use plan of creating a staff-led technical review committee for development reviews. The Planning and Zoning Board has reviewed said text amendment and offered a unanimous positive recommendation to Town Council related to the proposed text amendment.

Action Requested:

Action is appropriate regarding the proposed text amendment to formally create a technical review committee following tonight's public hearing.

**ORDINANCE AMENDING WEAVERVILLE TOWN CODE
CHAPTERS 25 AND 36 CONCERNING A TECHNICAL REVIEW COMMITTEE**

WHEREAS, the Planning and Zoning Board met on January 7, 2020, and discussed certain Code amendments that would formalize the technical review committee that has been working informally for several years;

WHEREAS, the Planning and Zoning Board has seen directly the positive value of a technical review committee in both subdivision applications and development applications under the Town's zoning regulations;

WHEREAS, the Planning and Zoning Board has found the resulting proposed amendments consistent with the Town's comprehensive land use plan, reasonable, and in the best interest of the public in that such amendments formalize a multi-department professional review of proposed subdivisions and development, and voted unanimously to recommend such proposed amendments;

WHEREAS, after proper notice the Town Council held a public hearing on February 24, 2020, in order to receive input from the public on these proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Weaverville, North Carolina, as follows:

1. The findings and recommendations of the Planning and Zoning Board are hereby incorporated by reference and adopted by Town Council, including specifically a finding that the amendments approved herein are consistent with the Town's adopted comprehensive land use plan.
2. Code Section 25-78 is hereby amended as follows, with added language shown as underlined:

Sec. 25-78. - General procedures for review of major and minor subdivisions.

All applications for development of major or minor subdivisions, including for review of concept plans, preliminary plats and final plats, shall be submitted to the town planner at the Weaverville Town Hall. In order to be considered at the next regularly scheduled meeting of the planning and zoning board, applications must comply with all code requirements and be received at least ten business days before the meeting. The planning director shall coordinate an evaluation of all applications for minor and major subdivisions with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the application for a minor or major subdivision to the Planning and Zoning Board and Town Council based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations. All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in section 25-27. Minor subdivisions shall be reviewed in accordance with the procedure set forth in section 25-79. The minor subdivision procedure may not be used a second time within three years from the date of its first use on any property which is less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal or equitable interest in the original subdivision at the time the original subdivision

received concept plan, preliminary plat or final plat approval. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 25-81 through 25-83.

3. Code Section 36-298 is hereby amended as follows, with added language shown as underlined:

Sec. 36-298. - Zoning permits required.

A zoning permit shall be obtained from the zoning administrator before beginning any construction on any lot within the town's zoning jurisdiction. No lot shall be graded so as to alter its contour and no building or other structure shall be erected, moved, added to, or structurally altered prior to the issuance of said zoning permit. In no event will the zoning administrator approve any permit for the grading of any lot or the construction or alteration of any building if such building, or its intended use would be in violation of any of the provisions of this chapter, or if the contour of any lot would be altered or graded in violation of the screening and buffering requirements of this chapter.

- (1) *Application for permit.* All applications for zoning permits shall be accompanied by such information as the zoning administrator determines as needed for a full review of the request. Zoning administrator shall ensure that all applications are compliant with the applicable sections of this chapter prior to issuance of permit or transmittal to the decision-making board.
- (2) *Issuance of zoning permit.* Prior to issuing a zoning permit the zoning administrator shall first review the application and supporting documentation to determine compliance with all of the applicable requirements of this chapter. If the plans show that the proposed construction meets all of the requirements of this chapter the zoning administrator shall, prior to the issuance of the zoning permit, make an inspection of the site to determine that the actual location of all existing or proposed buildings or structures, parking areas, buffer strips etc. are located as shown on the plans. If the services of the town engineer or of a registered land surveyor are required to assure that the actual locations, on the ground, are as shown on the plans, the cost of this service shall be paid by the applicant prior to issuance of the zoning permit. Any such charges shall be in addition to the normal charges for such zoning permit. After the zoning administrator finds that the plans and on-site locations meet the requirements of this chapter, the administrator shall issue a zoning permit stating that the proposed construction, if built as located, meets the provisions of this chapter and that the applicant can apply for building and other permits. When reviewing proposed uses of land related to new commercial, industrial or multi-family residential development, or uses which require the issuance of or an amendment to a special use permit or the adoption of a conditional zoning district, the planning director shall coordinate an evaluation of the proposed development with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the proposed development to the Planning and Zoning Board and Town Council based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

Explanatory note: While it may be obvious that a proposed building or structure to be located on a large tract of land meets the setback requirements by simple observation, actual field measurements would be required to determine compliance on a typical residential lot. All such measurements must be made from actual property or right-of-way lines using property corner or right-of-way markers. It may be assumed that the paved portion of any street or alley is in the center of the right-of-way for this purpose only if the right-of-way of record cannot be otherwise established by actual surveys.

- (3) *County permits required.* After the zoning permit is approved and issued, the applicant shall apply to the Buncombe County Permits and Inspections Department, or any

successor thereto, for building, plumbing, electrical or other required permits. If such permits are not issued within 60 days after issuance of the zoning permit, the zoning permit shall become invalid.

- (4) *Construction progress.* If no substantial construction progress has been made within 180 calendar days of the date of the issuance of the zoning permit, or if work is suspended for 365 calendar days, the zoning permit shall become invalid; provided, however, the zoning administrator may extend the time for substantial construction progress to be made by up to 180 calendar days, for good cause shown. This provision shall not be applicable, however, for time periods for projects in conditional zoning districts, which shall be governed by subsection 36-84(e), or special use permits, which shall be governed by article IX.
4. It is the intention of Town Council that the sections and paragraphs of this Ordinance are severable and if any section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs or sections of this Ordinance, since they would have been enacted by Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid section or paragraph.
5. These amendments shall be effective immediately upon adoption and immediately codified.

ADOPTED THIS the 24th day of February, 2020, by a vote of __ in favor and __ against.

ALLAN P. ROOT, Mayor

ATTESTED BY:

APPROVED AS TO FORM:

DEREK HUNINGHAKE, Town Clerk

JENNIFER O. JACKSON, Town Attorney

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: Monday, February 24, 2020

Subject: Initial Review of a Proposed Conditional Zoning District on the Property Commonly Known as 20 and 30 Garrison Branch Road

Presenter: Planning Director, Civil Design Concepts

Attachments: CZD Application, Site Plan

Description:

Staff is in possession of an executed conditional zoning district application for properties commonly known as 20 and 30 Garrison Branch Road which can be found at the intersection of Monticello Road and US25/70. Given that a CZD is proposed, initial review by Town Council is required. The application is calls for the establishment of a multi-tenant development of 25,000 square feet of more. Said development is permissible via a conditional zoning district from within the underlying C-2 zoning district.

The plan, as presently constituted, calls for a combination of office, retail, mini-warehousing and a proposed outparcel for a restaurant or drive-thru restaurant.

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
RETAIL / RESTAURANTS							
Multi-tenant Development (25,000 sq. ft. or more)	-	-	-	-	C	C	C

Action Requested:

Staff is seeking the opinion of Town Council so such positions may be taken into consideration during deliberations with the Planning and Zoning Board who will review the application in conjunction with staff.



Transmittal

Date: February 10, 2020

Project Name: Garrison Reserve

CDC Project: 11557

Permit #:

To: James Eller, Planning Director
Town of Waverlyville
30 South Main Street
P.O. Box 338
Weaverville, NC 28787

Via: Mail Overnight Hand Delivered Pick up @ CDC Office Digital

Copies	Date	Description
1	02/10/20	Conditional Zoning District Application Fee - \$350
1	02/10/20	Conditional Zoning District Application
1	02/10/20	Sewer Allocation
3	02/10/20	24" x 36" Engineering Plans

Remarks:

Attached is the Conditional Zoning District Application package for the Garrison Reserve project. Please let us know if you have any questions or comments.

Thank you,

Warren Sugg, P.E

<S:\ACAD\11855\docs\Planning\submittal parts\Transmittal TRC.docx>

Mailing Address: P.O. Box 5432, Asheville, NC 28813

**168 Patton Avenue Asheville, NC 28801
Phone 828-252-5388 Fax 828-252-5365**

**52 Walnut Street – Suite 9, Waynesville, NC 28786
Phone: 828-452-4410 Fax: 828-456-5455**

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department
30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002--- fax (828) 645-4776 --- jeller@weavervillenc.org
\$350.00 Application Fee



Conditional Zoning Districts address situations in which a particular use, properly planned, may be appropriate for a specific site but, the existing zoning district of the site has insufficient standards to mitigate the site-specific impact on the surrounding area.

Uses which may be considered for a Conditional Zoning District shall be established on a case-by-case basis at the request of the property owner. Conditional Zoning Districts are not intended for securing early or speculative reclassification of a property.

A Conditional Zoning District shall be defined as a zoning district in which the development and use of the property included in the district are subject to predetermined ordinance standards, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. If the use of an approved Conditional Zoning District ever changes, a new proposed use and plan must be submitted for review by the Town Council.

A fee of \$350.00 shall be paid to the Town of Weaverville for each Conditional Zoning District or rezoning request. During review of the request, all additional costs incurred by the Town above the initial fee of \$350.00 shall be the responsibility of the applicant.

OWNER/APPLICANT NAME: Garrison Branch Acquisitions LLC APPLICATION DATE: 02/10/2020

BRIEFLY DESCRIBE THE PROJECT: 3 buildings with a mix of uses as follows: retail (+/- 29,420 SF), warehouse (+/- 32,400 SF), and office (+/- 9,920 SF)

PHONE NUMBER:

PROPERTY ADDRESS: 20 & 30 Garrison Branch Rd
Weaverville, NC 28787

PIN: 9733-72-2155; 9733-72-0316

DEED BOOK/PAGE: 5806/0498; 5806/0490

LOT AREA (acres): 4.89 acres

ZONING DISTRICT: C-2

MANAGER
ALBERT

2/10/2020

SIGNATURE OF APPLICANT

DATE

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department
 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
 (828) 484-7002--- fax (828) 645-4776 --- jeller@weavervillenc.org
\$350.00 Application Fee



A petition for a Conditional Zoning District must include a site plan and supporting information that specifies the intended uses for property. A complete site plan will include the following:

X	Title block containing:
	X Name of owner & applicant
	X Property address
	X Buncombe County PIN
	X Date or dates survey was conducted or plan prepared
	X Scale of the drawing in feet per inch
	X Deed book and page reference of the deed
	X Zoning designation of property
X	Sketch vicinity map depicting the relationship between the proposed subdivision and the surrounding area
X	North Arrow and orientation
X	Lot area in acres and square feet
X	Existing topography of the site and within 300 feet of the site boundary in five (5) foot contours
NA	Delineation of areas within the floodplain.
X	Names of owners of adjoining properties, Buncombe County PIN, and zoning designation
X	Minimum building setback lines applicable to the lot, including drainage or utility easements
X	Proposed number and location of signs
X	Exact dimensions, location, height, and exterior features of proposed buildings and structures
X	Scale of all buildings relative to adjoining properties, including sight lines
NA	Utility easements
X	Existing and proposed sanitary sewer system layout and a letter of commitment
X	Existing and proposed water distribution system layout and a letter of commitment
X	Existing and proposed stormwater system layout. Include copy of application for Buncombe County stormwater permit
X	Plans for individual water supply and sewerage/septic disposal system, if any
NA	A statement as to whether or not natural gas, telephone, electric, and cable lines are to be installed, and whether they will be above or below ground
X	Exact dimension and location of all traffic, parking, and circulation plans showing the proposed location and arrangement of parking spaces.
X	Existing and proposed roads, driveways, ingress/egress, easements, and rights-of-way both private and public. Include NCDOT driveway permit, if required.
NA	Existing and proposed encroachments into setbacks, rights-of-way, and/or easements, if any
NA	Location of significant trees on the property
NA	Proposed phasing, if any, and expected completion date of the project.

Upon reviewing the application, site plan, and supporting documents, the Planning and Zoning Board will issue statement of reasonableness of the proposed Conditional Zoning District.

Before a public hearing may be held by the Town Council, the petitioner must file in the Office of the Town Clerk, a written report of at least one community meeting held by the petitioner. The report shall include a list of those persons and organization notified of the meeting detailing the method and date of contact' the date, time, and location of the meeting; a roster of persons in attendance, a summary of issues discussed, and a description of any changes to the petition as a result of the meeting. In the event the petitioner has not held at least one meeting, the petitioner shall file a report documenting efforts that were made and the reasons such a meeting was not held.

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department

30 South Main Street, P.O. Box 338, Weaverville, NC 28787

(828) 484-7002--- fax (828) 645-4776 --- jeller@weavervillenc.org

\$350.00 Application Fee



At the discretion of the Town Council, it may be required of the property owner to guarantee performance or completion of conditions included in the Conditional Zoning Plan. Such guarantee may take the form of: (1) a surety performance bond made by a company licensed and authorized in North Carolina, (2) a bond of a developer with an assignment to the Town of a certificate of deposit, (3) a bond of developer secured by an official bank check drawn in favor of the Town and deposited with the Town Clerk, (4) cash or an irrevocable letter of credit, (5) a bank escrow account whereby the developer deposits cash, a note, or a bond with a federally insured financial institution into an account payable to the Town. The amount of the guarantee shall be determined by Town Council.



Metropolitan Sewerage District

of Buncombe County, North Carolina

Allocation Approval

**This approval is not to be used to obtain a building permit
and is for gravity sewer extension only.**

Applicant:	STEPHEN BEVERIDGE	Date: 2/10/2020
Company:	CIVIL DESIGN CONCEPTS, PA	
Mailing Address:	168 PATTON AVENUE, ASHEVILLE, NC 28801	
Phone:	(Home) (Cell) 828-252-5388 (Work)	
Project #:	2020020	
Project Name:	GARRISON BRANCH RESERVE-RENEWAL	
Project Location:	GARRISON BRANCH ROAD (20,30)	
PIN:	9733722155 9733720316	

MSD of Buncombe County has approved your request for **5,000 GPD**
 The connection point (manhole #) will be **Multiple on new 828 North Extension**
 The project will consist of **(4) COMMERCIAL BUILDINGS**

Your final approval is contingent upon compliance of the items below:

- If this project ends up having a restaurant or food servicing facilities or discharge non-domestic waste. You must contact ALAN TAYLOR at ataylor@msdbc.org to obtain approval.
- The project will require service connection(s) as part of the 828 North (2017153) Sewer Extension permitted (P01057) to Stephen Austin. Please complete and submit Sewer Service Application(s). MSD staff will contact you with applicable fees.

Comments:

- Warehouse (Building C) does not show a service connection. If this building will have plumbing, it will require its own sewer service connection to the new public sewer extension.
- Certificates of Occupancy will not be released until 828 North sewer extension is closed out and conveyed to MSD.

The North Carolina Department of Environmental Quality (NCDEQ) requires MSD to issue this approval based on line condition/capacity of the receiving sewer and remaining plant capacity.

This allocation approval will expire on **02/10/2021** if no construction has started.

If you have any questions, please contact MSD.



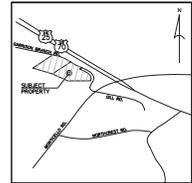
 Kevin Johnson
 MSD Planning and Development

GARRISON RESERVE

WEAVERVILLE, NORTH CAROLINA

PREPARED FOR:
 GARRISON BRANCH ACQUISITIONS, LLC
 19 ARLINGTON STREET, SUITE 1
 ASHEVILLE, NC 28801
 JC GUEST
 (828) 301-4322

Sheet List Table	
Sheet Number	Sheet Title
CO00	COVER
CS00	MASTER SITE PLAN
CS01	SITE PLAN
CS01	GRADING, EROSION CONTROL, & STORM DRAINAGE PLAN
CS01	UTILITY PLAN



VICINITY MAP
(NOT TO SCALE)



Know what's below.
Call before you dig.

DEVELOPMENT DATA	
OWNER/DEVELOPER:	GARRISON BRANCH ACQUISITIONS, LLC 19 ARLINGTON STREET, SUITE 1 ASHEVILLE, NC 28801 JC GUEST (828) 301-4322
CONTACT:	
CIVIL ENGINEER:	CDC DESIGN CONCEPTS, P.A. 158 PATTON AVENUE ASHEVILLE, NC 28801 WARREN BUGG, P.E. (828) 252-0268
CONTACT:	

158 PATTON AVENUE
ASHEVILLE, NC 28801
(828) 252-0268
www.cdcdesign.com

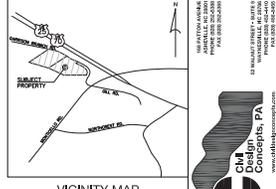
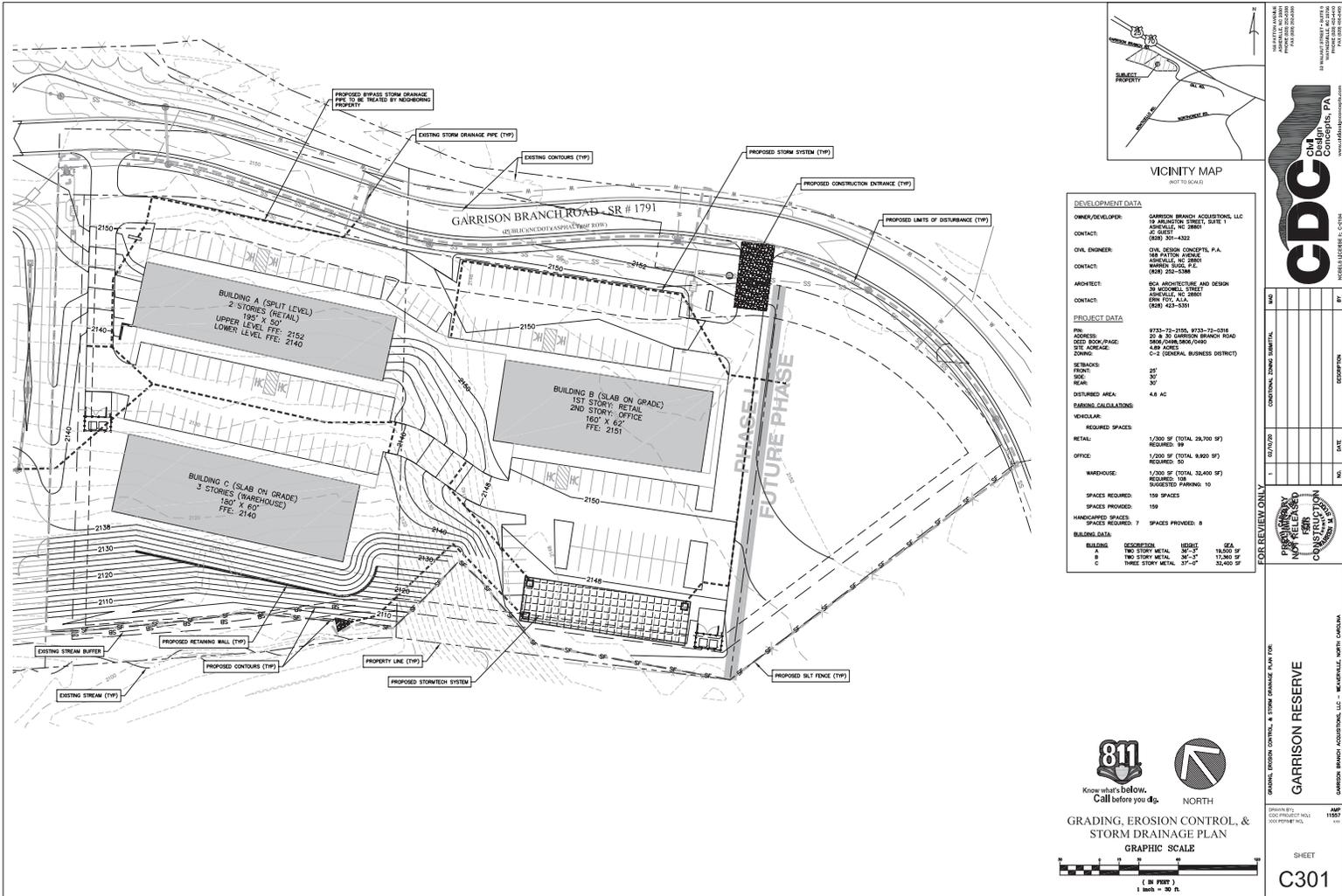
NO.	DATE	DESCRIPTION	BY
1	02/10/20	CONDITIONS DURING SUBMITTAL	

GARRISON RESERVE

GARRISON BRANCH ACQUISITIONS, LLC - WEAVERVILLE, NORTH CAROLINA

SHEET

C000



VICINITY MAP
(NOT TO SCALE)

DEVELOPMENT DATA
 OWNER/DEVELOPER: GARRISON BRANCH ACQUISITION, LLC
 18 ARLINGTON STREET, SUITE 1
 ARIENDELL, NJ 08801
 (800) 301-4322
 CONTACT: [Redacted]
 CIVIL ENGINEER: CHA. GRIFFIN CONSULTING P.A.
 1500 W. 10TH STREET
 WARRNER, NJ 07058
 (800) 260-5588
 CONTACT: [Redacted]
 ARCHITECT: BGA ARCHITECTURE AND DESIGN
 50 ACHERON STREET
 ARIENDELL, NJ 08801
 (800) 423-0301
 CONTACT: [Redacted]

PROJECT DATA
 PIN: 9733-12-216L, 9733-12-016L
 ADDRESS: 20 & 25 GARRISON BRANCH ROAD
 2800 DUNBAR PARK
 4.88 ACRES
 ZONING: C-2 (GENERAL BUSINESS DISTRICT)
 DISTURBED AREA: 4.8 AC
LOADING CALCULATIONS
 VEHICULAR:
 REQUIRED SPACES: 1,700 SF (TOTAL 29,700 SF)
 REQUIRED: 99
 OFFICE:
 1,700 SF (TOTAL 8,000 SF)
 REQUIRED: 50
 WAREHOUSE:
 1,700 SF (TOTAL 32,400 SF)
 REQUIRED: 108
 SPACES REQUIRED: 158 SPACES
 SPACES PROVIDED: 159
 HANDICAPPED SPACES: 7 SPACES PROVIDED: 8

BUILDING DATA

BUILDING	DESCRIPTION	FLOOR	AREA
A	TWO STORY METAL	30'-0"	18,000 SF
B	TWO STORY METAL	30'-0"	17,360 SF
C	THREE STORY METAL	37'-0"	21,400 SF

CDC
 Construction Development Concepts, PA
 1000 W. 10TH STREET
 WARRNER, NJ 07058
 (800) 260-5588
 WWW.CDCCONCEPTS.COM

FOR REVIEW ONLY

PROHIBITED FOR CONSTRUCTION

GRADING, EROSION CONTROL, & STORM DRAINAGE PLAN FOR
GARRISON RESERVE
 20 & 25 GARRISON BRANCH ROAD - WARRNER, NORTH CAROLINA

DRAWN BY: [Redacted]
 100% PROJECT WALL
 100% PERMIT WALL

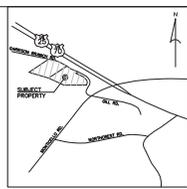
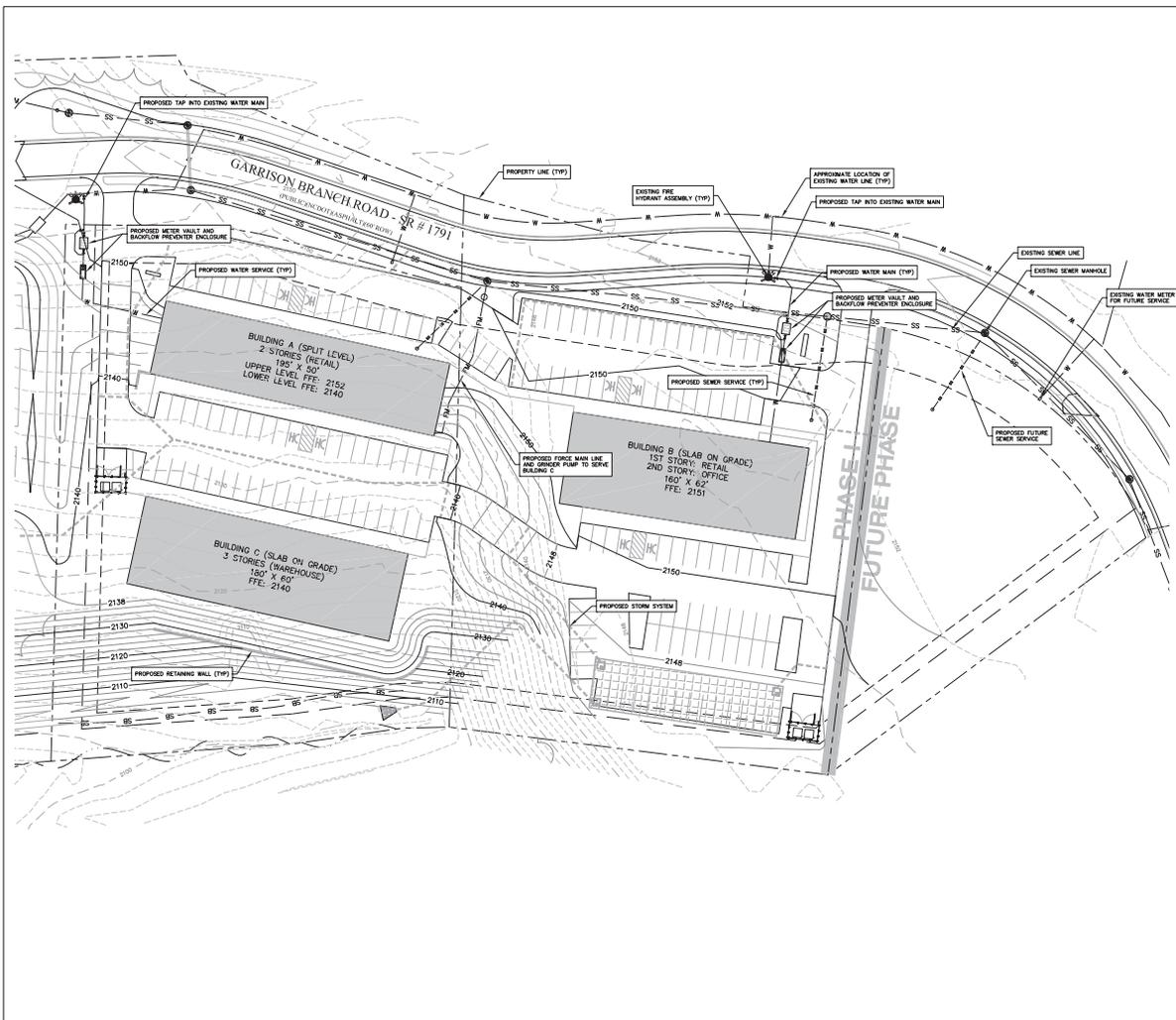
SHEET
C301

811
 Know what's below.
 Call before you dig.

NORTH

GRADING, EROSION CONTROL, &
 STORM DRAINAGE PLAN
 GRAPHIC SCALE

(IN FEET)
 1 inch = 30 ft



DEVELOPMENT DATA

OWNER/DEVELOPER: GARRISON BRANCH ACQUISITION, LLC
 CONTACT: 18 ARDEN STREET, SUITE 1
 ARDENVILLE, PA 15001
 (800) 301-4322

CIVIL ENGINEER: CHA. GRIFFIN CONSULTING, P.A.
 150 PATTON DRIVE
 ARDENVILLE, PA 15001
 WATER BLDG. #2
 (800) 260-5588

ARCHITECT: BCA ARCHITECTURE AND DESIGN
 50 MOORE STREET
 ARDENVILLE, PA 15001
 ENR PROJ. A-14
 (800) 423-0301

PROJECT DATA

FIN: 9733-12-2161, 9733-12-0316
 ADDRESS: 25 & 30 GARRISON BRANCH ROAD
 ARDENVILLE, PA 15001
 DEED BOOK/PAGE: 280/038-000/040
 SITE AREA: 4.88 ACRES
 ZONING: C-2 (GENERAL BUSINESS DISTRICT)

SETBACKS:
 FRONT: 25'
 SIDE: 30'
 REAR: 30'

DISTURBED AREA: 4.8 AC

DRAINING CALCULATIONS

VEHICULAR:
 REQUIRED SPACES: 1,700 SF (TOTAL 29,700 SF)
 REQUIRED: 99

OFFICE:
 1,700 SF (TOTAL 8,000 SF)
 REQUIRED: 50

WAREHOUSE:
 1,700 SF (TOTAL 32,400 SF)
 REQUIRED: 10

SPACES REQUIRED: 159 SPACES
 SPACES PROVIDED: 159

HANDICAPPED SPACES: 7 SPACES PROVIDED: 8

BUILDING DATA

BUILDING	DESCRIPTION	FLOOR	AREA
A	TWO STORY METAL	34'-0"	19,500 SF
B	TWO STORY METAL	34'-0"	17,360 SF
C	THREE STORY METAL	37'-0"	25,400 SF

FOR REVIEW ONLY

PROPOSED CONSTRUCTION

UTILITY PLAN FOR
GARRISON RESERVE
GARRISON BRANCH ACQUISITION, LLC - WARRENDALE, NORTH CAROLINA

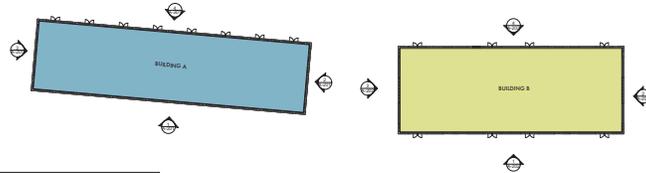
DATE: _____

SHEET
C601

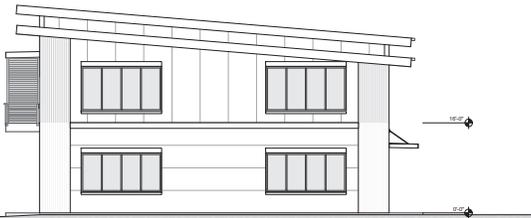
811
Know what's below.
Call before you dig.

NORTH

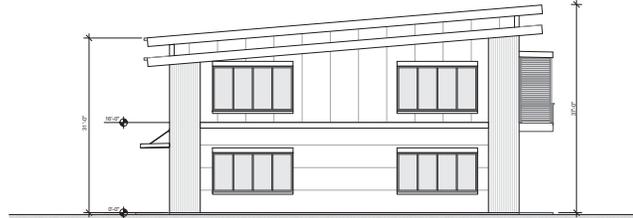
UTILITY PLAN
GRAPHIC SCALE
1 inch = 30 ft



1 BUILDING B (S)
SCALE: 1/8" = 1'-0"



2 BUILDING B (E)
SCALE: 1/8" = 1'-0"



3 BUILDING B (W)
SCALE: 1/8" = 1'-0"



4 BUILDING B (N)
SCALE: 1/8" = 1'-0"





18 WOODWELL ST. ASHEVILLE, NC
719.259.7339 WWW.BCAV.COM

NOTICE:
THIS DRAWING AND THE RESULTS OF ALL RELATED SERVICES ARE CONSIDERED TO BE THE PROPERTY OF THE ARCHITECT. INFORMATION, DETAILS AND SPECIFICATIONS NOT INCLUDED IN THIS DRAWING ARE THE RESPONSIBILITY OF THE ARCHITECT OR OTHERS.
IT SHALL BE THE RESPONSIBILITY OF THE OWNER TO VERIFY THE ACCURACY OF ALL INFORMATION PROVIDED TO THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, APPROVALS, AND REGULATIONS IN BOTH THE NORTH AND SOUTH CAROLINA STATES.
THE ARCHITECT AND ITS CONSULTANTS SHALL NOT BE RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT OR FOR ANY DAMAGE TO THE PROJECT OR FOR ANY INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THESE DRAWINGS. THE ARCHITECT AND ITS CONSULTANTS SHALL NOT BE RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT OR FOR ANY DAMAGE TO THE PROJECT OR FOR ANY INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THESE DRAWINGS.

CONDITIONAL ZONING
NOT FOR CONSTRUCTION

PROJECT NAME:
GARRISON BRANCH
#Site Address1
Asheville, NC 28801

OWNER:
#Client Full Name

MARK	DATE	ISSUE

PROJECT NO.: 1957
MODEL FILE:
DRAWN BY: BCA
CHK'D BY:

SHEET TITLE:
BUILDING B ELEVATIONS

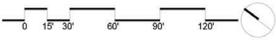
DATE: 2/5/20 © 2020

A-202

FOR REVIEW ONLY NOT FOR CONSTRUCTION



GARRISON BRANCH
WEAVERVILLE, NC



MASTER PLAN

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE REPRESENTATIONS PROVIDED ARE SUBJECT TO CHANGE AND SHOULD NOT BE RELIED UPON AS A COMPLETE, ACCURATE OR FINAL DESCRIPTION OF THE PROJECT.

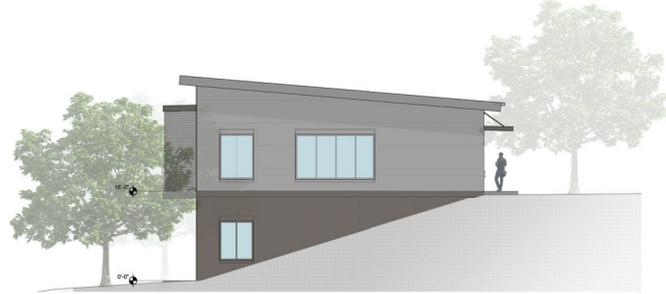
sitework
STUDIOS
FEBRUARY 7, 2020



1 BUILDING A (S)
SCALE: 1/8" = 1'-0"



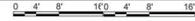
2 BUILDING A (E)
SCALE: 1/8" = 1'-0"



3 BUILDING A (W)
SCALE: 1/8" = 1'-0"



4 BUILDING A (N)
SCALE: 1/8" = 1'-0"



GARRISON BRANCH

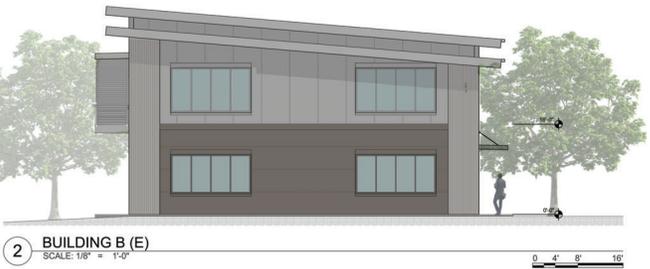
WEAVERVILLE, NC

BUILDING A ELEVATIONS

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE REPRESENTATIONS PROVIDED ARE SUBJECT TO CHANGE AND SHOULD NOT BE RELIED UPON AS A CONTRACT, AGREEMENT OR FINAL DETERMINATION OF THE PROJECT.



1 BUILDING B (S)
SCALE: 1/8" = 1'-0"



2 BUILDING B (E)
SCALE: 1/8" = 1'-0"



3 BUILDING B (W)
SCALE: 1/8" = 1'-0"



4 BUILDING B (N)
SCALE: 1/8" = 1'-0"

GARRISON BRANCH

WEAVERVILLE, NC

BUILDING B ELEVATIONS

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE REPRESENTATIONS PROVIDED ARE SUBJECT TO CHANGE AND SHOULD NOT BE RESED UPON AS A COMPLETE, ACCURATE OR FINAL DESCRIPTION OF THE PROJECT.



1 BUILDING C (W) NOT TO SCALE



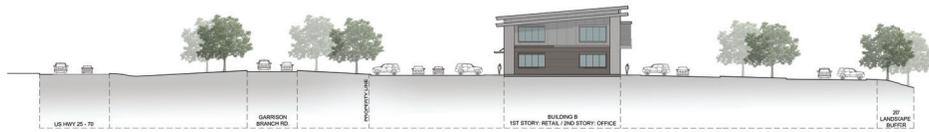
2 BUILDING C (N) NOT TO SCALE

GARRISON BRANCH

WEAVERVILLE, NC



SECTION A



SECTION B



SECTION A AND B

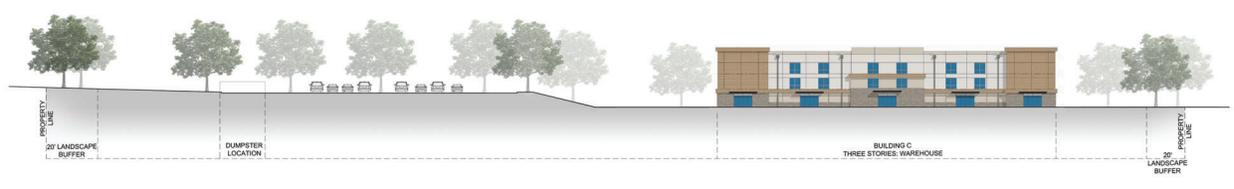
GARRISON BRANCH

WEAVERVILLE, NC

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE REPRESENTATIONS PROVIDED ARE SUBJECT TO CHANGE AND SHOULD NOT BE RELIED UPON AS A CONTRACT, AGREEMENT OR FINAL DETERMINATION OF THE PROJECT.



SECTION C



SECTION D



SECTION C AND D

GARRISON BRANCH
WEAVERVILLE, NC

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE REPRESENTATIONS PROVIDED ARE SUBJECT TO CHANGE AND SHOULD NOT BE RELIED UPON AS A COMPLETE, ACCURATE OR FINAL DESCRIPTION OF THE PROJECT.

Town of Weaverville
Town Council Agenda Item

Date of Meeting: Monday, February 24, 2020

Subject: Downtown Parking

Presenter: Town Manager & Town Attorney

Attachments: Yes

1. Downtown Parking Recommendations
2. Ordinance Repealing and Replacing Weaverville Town Code Chapter 28 Concerning Traffic

Description:

At its regular December, Town Council asked staff to bring forward a proposal for addressing parking issues in downtown Weaverville. During the time since that meeting, staff has worked to develop the attached documents for Town Council's review and approval. The Town Manager and Town Attorney will present these documents and Town Council will have the opportunity to discuss.

Action Requested:

The Town Manager recommends approval of the parking and parking enforcement plans and approval of the Ordinance if it is prepared to do so at this meeting.

Downtown Parking Study & Recommendations

February 24, 2020

Introduction & Background

Weaverville is a vibrant community known for its arts, quaint shops and restaurants, historic character, and close proximity to Asheville and nearby recreational opportunities. The Town prides itself on maintaining its small-town character while supporting the region's arts, recreation, and tourist industries. Given its unique character and popularity, demand for parking in downtown has been an ongoing issue, highlighting existing parking inefficiencies. Of particular concern has been high demand during peak periods, employee parking, and limited information for visitors.

Progress has been made in addressing downtown parking issues, some key steps as highlighted below:

- The Town re-striped spaces on Main Street in collaboration with North Carolina Department of Transportation's (NCDOT) re-paving project in October 2016. The Town's re-striping of on-street parking added 8 spaces on Main Street and improved handicapped spaces.
- In February 2018, the Town Manager and Public Works Director partnered with the downtown Weaverville churches (Weaverville United Methodist, First Presbyterian, and First Baptist Church) to obtain 57 parking spaces in these churches' lots for downtown businesses' employees. These spaces are allocated by the churches and the Town's Public Works Department striped them in yellow, denoting spaces for downtown businesses' employee parking.
- In April 2018, the Town published a walkability map, which primarily focused on Town sidewalks, but also publicly identified the parking spaces available in church lots (attachment 1).
- In November 2019, the Weaverville Business Association released the "2019 Shopping, Restaurant, Business, and Parking Map", which depicts on-street parking, private and public parking, and employee parking at the church lots (attachment 2).



Downtown Parking Study & Recommendations

February 24, 2020

Existing Conditions

Parking Inventory

Within the study area, there are a total of 135 marked public parking spaces on Main Street between the intersections of Hamburg Mountain Road and Brown Street. This includes 89 marked, on-street spaces and 46 spaces in the municipal parking lot at the Town clock. There are another 57 marked spaces available for employees of downtown businesses at Weaverville churches: United Methodist Church (18 spaces), First Baptist Church (10 spaces), and First Presbyterian Church (29 spaces).

Other Conditions

No paid parking or metering is in effect in Weaverville. There are 11 parking signs within the study area, with 4 marked as two-hour parking, 2 marked as one-hour parking, 2 marked for 30 minute parking, and 3 marked for 1 hour parking on weekdays from 8:00am-6:00pm. Parking has historically not been enforced unless it prohibited safe passage or a vehicle was inappropriately parked in a handicapped space.



Recommendations

The recommendations within this report are predicated on the following key assertions:

- All Main Street on-street parking will be standardized to a two-hour maximum.
- The Town's municipal (clock) lot should be time-limited to three-hour parking in order to provide visitors adequate time for shopping, dining, etc.
- Time-limited parking should be in effect from 8:00am – 6:00pm Monday through Friday. Parking will not be enforced on weekends.
- Employees of downtown businesses must utilize marked parking spaces established at the three downtown churches (Weaverville United Methodist, First Baptist, and First Presbyterian).
- The Weaverville Police Department will begin parking enforcement on April 1, 2020.

Downtown Parking Study & Recommendations

February 24, 2020

1. ADOPT UPDATED CODE PERTAINING TO TRAFFIC AND PARKING

The Town's current Code of Ordinances regarding parking was adopted in 1973. Staff has identified and is proposing a repeal and replacement of Chapter 28 in order to make a number of revisions to this Chapter of the Code. These will be presented for review and discussion during the February 24, 2020 Town Council meeting.

2. IMPLEMENT COMMUNICATIONS AND OUTREACH PLAN FOR DOWNTOWN PARKING

The Town should implement a communications and outreach plan that clearly articulates parking options and enforcement actions to include the following:

- Develop marketing/communications materials including parking map and/or brochure.
- Disseminate information across multiple platforms, such as Town website, Town e-newsletter, social media, local press releases, home-owners association distribution lists, etc.
- Disseminate letter (via mailing, email and hand-delivery) from town manager to downtown business owners clearly identifying parking options and enforcement actions to be taken for violations.
- Town manager to present newly adopted policies, procedures, and enforcement plan to the Weaverville Business Association.

3. UPGRADE, ADD AND REPLACE PARKING SIGNAGE

The Town should take the following actions to upgrade, add, and replace parking signage downtown:

- Replace and update all downtown signage including:
 - 2 hour on-street parking
 - 3 hour parking in the Town's municipal (clock) lot
 - Replace damaged and/or missing signage as appropriate
- Increase number of signs in dense traffic areas
- Ensure that signage is installed at the appropriate height to gain maximum visibility by drivers



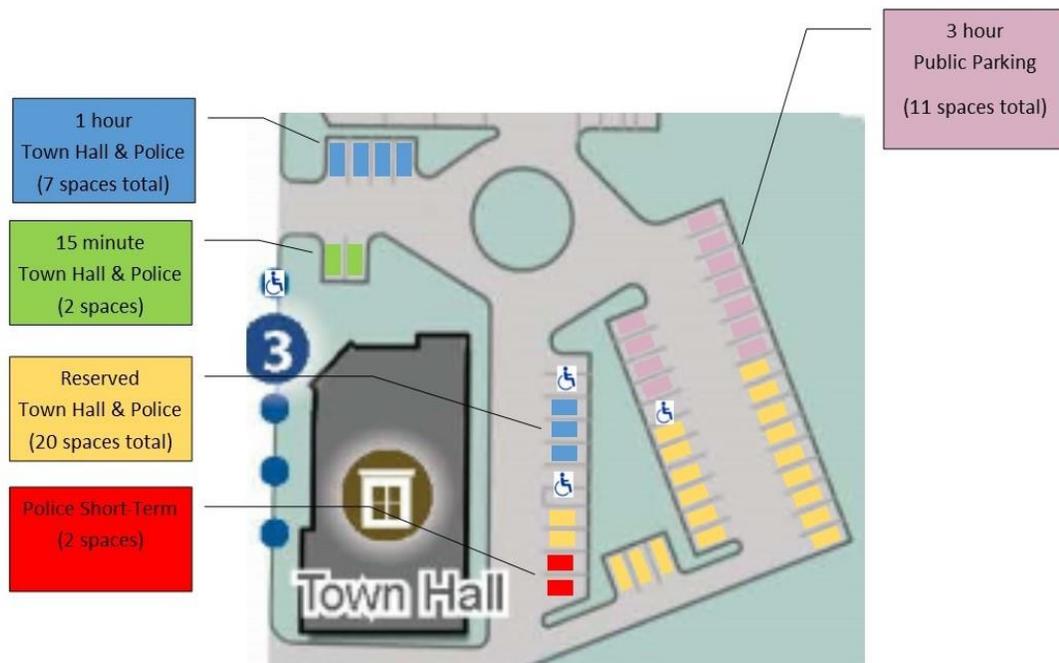
Figure 1: Example of possible upgraded signage

Downtown Parking Study & Recommendations February 24, 2020

4. ADD MARKED SPACES TO PARKING INVENTORY

The Town should take the following actions to add to the downtown parking inventory:

- Add 11 three-hour public parking spaces at Town Hall by marking all others reserved for Town Hall and Police Department employees and customers. See illustration below.
- Request NCDOT approval to add at least 8 marked spaces from Weaverville Primary School to Brown Street.
- Study Merchants Alley for possible recommendations to increase parking inventory or improve traffic flow.



5. DOWNTOWN PARKING ENFORCEMENT

The Weaverville Police Department will begin parking enforcement on April 1, 2020. Because parking enforcement will begin mid-fiscal year, the Town Manager and Police Chief will monitor its budgetary impact and adjust the fiscal year 2020-2021 budget accordingly. It is anticipated that the Police Department will initiate enforcement with the use of warnings and will transition into citations after this transition period.

Downtown Parking Study & Recommendations

February 24, 2020

Fees:

The Town Manager recommends the following adjustments to the fiscal year 2019-2020 fee schedule for parking enforcement activities.

DELETE:

Truck Traffic on Residential Street	\$50.00
Parking Violations	\$10.00

ADD SECTION:

Traffic and Parking Violations

Parking in Handicapped Zone	\$100.00
Parking in Fire Lane	\$100.00
Parking too close to Fire Hydrant	\$100.00
Obstructing Traffic Lane	\$100.00
Parking too close to Intersection	\$50.00
Parking in or within 15 ft of a Crosswalk	\$50.00
Parking too close to Stop Sign	\$50.00
Blocking Private Driveway.....	\$50.00
Double Parking	\$50.00
Truck Traffic in Restricted Area	\$50.00
Parking in a Prohibited Area	\$50.00
Overtime Parking	\$30.00
Parking in a Restricted Zone	\$30.00
Parking Across Lines	\$30.00
Parking too far from Curb or Street Edge	\$30.00
Other Parking Violations	\$30.00
Late Payment Penalty	Fine is doubled if not paid within 10 Days

Downtown Parking Study & Recommendations February 24, 2020

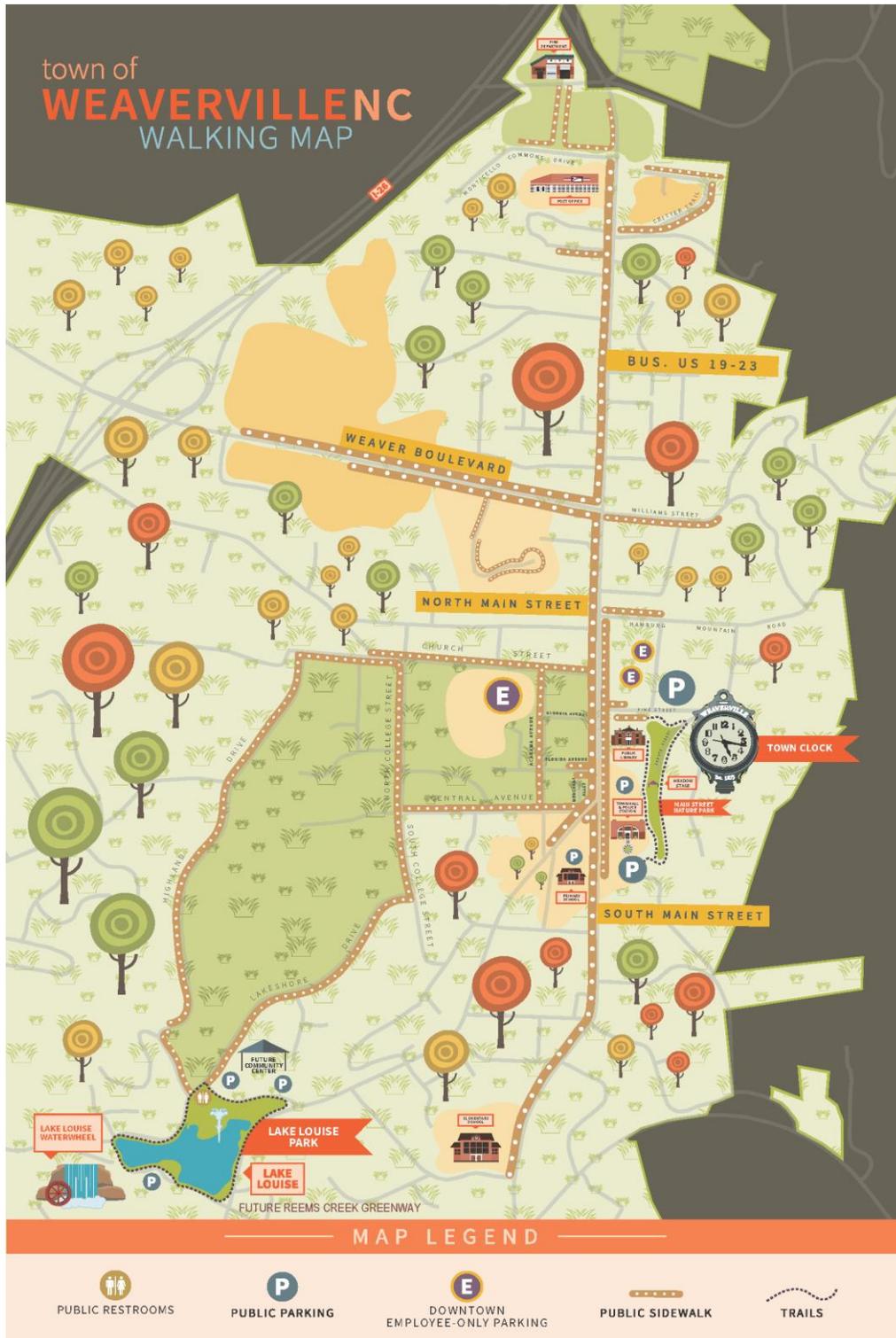
RESOURCES

As staff continues to evaluate the Town's current parking signage it may need to request a budget amendment forward for the purchase of new and/or additional signage during the current fiscal year. Also, and as stated earlier, because parking enforcement will begin mid-fiscal year, the Town Manager and Police Chief will monitor its budgetary impact and adjust the fiscal year 2020-2021 budget accordingly.

IMPLEMENTATION SCHEDULE

Date(s)	Description
February 2020	<ul style="list-style-type: none">• Town Council review (and possible adoption) of Ordinance Repealing and Replacing Weaverville Town Code Chapter 28 Concerning Traffic• Town Council approval of parking recommendations• Town Manager begins developing communication and outreach materials
March 2020	<ul style="list-style-type: none">• Town Council review (and possible adoption) of Ordinance Repealing and Replacing Weaverville Town Code Chapter 28 Concerning Traffic• Public Works begins updating signage and marking spaces• Communications and outreach plan implemented
April 2020	<ul style="list-style-type: none">• Police Department begins parking enforcement.

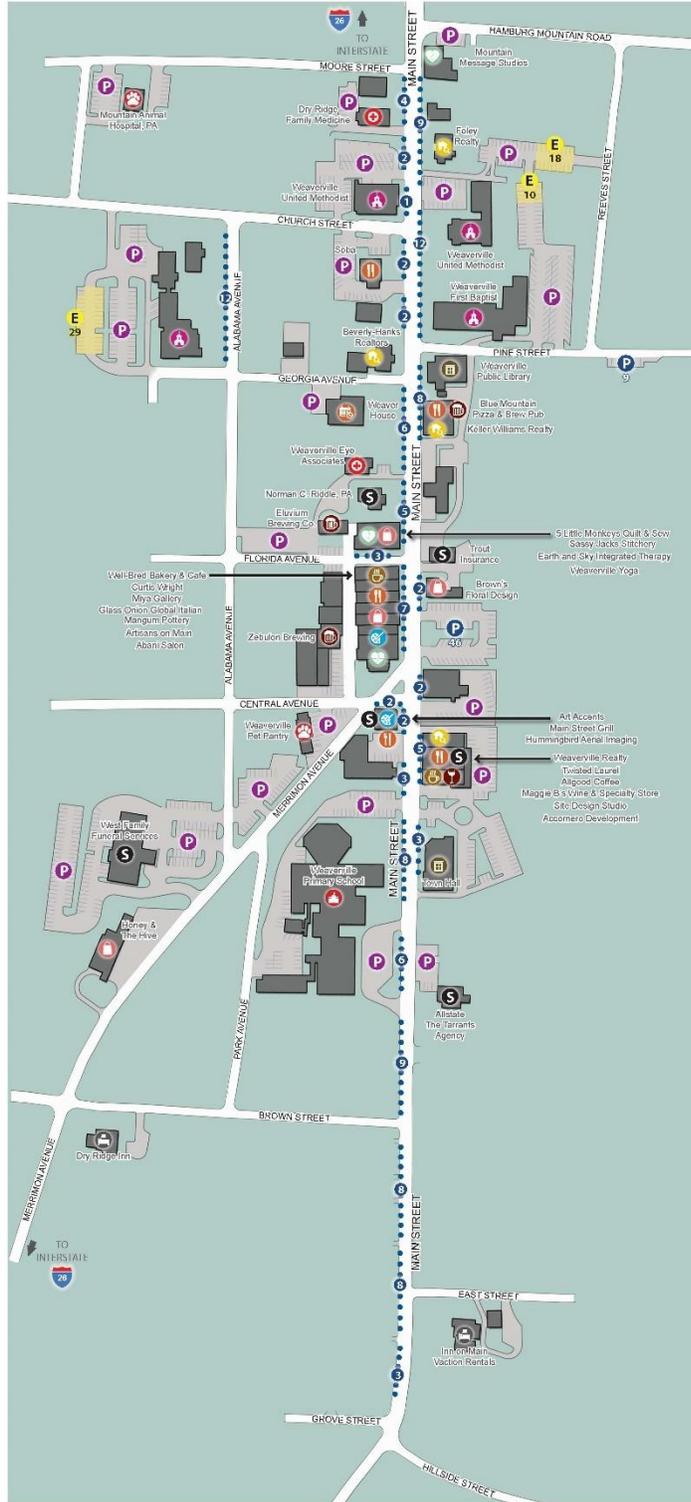
Attachment 1: Town of Weaverville Walkability Map



Downtown Parking Study & Recommendations

February 24, 2020

Attachment 2: Weaverville Business Association Map



WEAVERVILLE
BUSINESS
ASSOCIATION

The Art of Small Town
Hospitality

2019 Shopping, Restaurant, Business and Parking Map

Welcome to Weaverville, a small town jewel, where we savor our local roots and our artistic flair.

Weaverville has all the cosmopolitan perks of Asheville but at a slower pace. Join us for gourmet pastries over coffee. Make conversation with the locals who gather to discuss the day's news. Hike or bike in our beautiful Blue Ridge Mountains and then experience fine dining and locally crafted beer. Shop for fine art or craft after an afternoon massage or stroll down Main Street and see how many folks smile back at you. Here, you can experience a place where the locals truly cultivate the art of small town hospitality.

In Weaverville, everyone is happy to see you. Whether you want to explore Appalachian roots and history at Vance Birthplace, have a zip-line adventure in the tree tops or enjoy live music at a small town eatery, you are welcome here. Come find authenticity and something for everyone in Weaverville, North Carolina.

visitweaverville.com

LEGEND

- ON-STREET PARKING
- P PUBLIC PARKING
- P PRIVATE PARKING
- E EMPLOYEE PARKING (striped yellow)
- G GOVERNMENT / COMMUNITY BUILDING
- SC SCHOOL
- A AUTO-LOCK
- BE & B B&B / INN
- ES EVENT SPACE
- BR BREWERY
- W WINE
- CO COFFEE SHOP / CAFE
- R RESTAURANT
- AG ART GALLERY / STUDIO
- RS RETAIL / SHOPPING
- W WELLNESS / SPA
- PE PET / ANIMAL SERVICES
- RE REAL ESTATE SERVICES
- S SERVICES
- MC MEDICAL SERVICES

**ORDINANCE REPEALING AND REPLACING
WEAVERVILLE TOWN CODE CHAPTER 28 CONCERNING TRAFFIC**

WHEREAS, Town Council of the Town of Weaverville wishes to exercise its authority under N.C. Gen. Stat. §§ 160A-296, 160A-300, and 160A-301 in order to establish control over vehicular and pedestrian traffic and parking within its jurisdiction; and

WHEREAS, Chapter 28 of the Weaverville Town Code contains the Town’s regulation of traffic and it is the desire of Town Council to repeal and replace that Chapter with new regulations;

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Weaverville, North Carolina, as follows:

1. Chapter 28 of the Weaverville Town Code of Ordinances is hereby repealed and replaced with the following:

CHAPTER 28 - TRAFFIC AND PARKING

ARTICLE I. - GENERAL PROVISIONS

Sec. 28-100. Title

This chapter 28 of the Town’s Code of Ordinances may be referred to as the town’s traffic ordinance or the town’s parking ordinance.

Sec. 28-101. – Authority.

The regulations contained within this article are adopted pursuant to the authority granted under NCGS §§ 160A-296, 160A-300, and 160A-301.

Sec. 28-102. - Administration.

The town’s law enforcement officers, code enforcement officer, and the town manager, or his or her designee, shall be responsible for the administration and enforcement of this chapter. The board of adjustment shall be the appeals board for all decisions made under this chapter unless otherwise provided.

Sec. 28-103. – Concurrent jurisdiction.

Nothing in this chapter shall be construed to limit the legal authority or powers of federal, state, or county law enforcement officers or officers of the town’s police department or fire department in enforcing applicable laws, rules or regulations, or in otherwise carrying out their duties. Nothing in this chapter shall be construed to limit the authority of the North Carolina Department of Transportation over right-of-way under its jurisdiction.

Sec. 28-104. - Definitions.

For the purposes of this chapter the following definitions shall apply, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means any motor vehicle that has been (1) left upon a street or highway in violation of the law or ordinance regulating or prohibiting parking, (2) left on property owned or operated by the town for longer than 24 hours; (3) left in any town owned or operated parking lot for longer than seven days, (4) left on any street or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public, or (5) left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours.

Chronic parking violator means anyone that has three (3) or more outstanding, unpaid and overdue parking citations within a 90 day period.

Curb means the boundaries of the public streets of the town.

Double parking means a motor vehicle parked between a motor vehicle parked at the edge of a curb and the center of a street or the curb on the opposite side of such street.

Gross vehicle weight (GVW) means the weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load on the vehicle.

Motor vehicle or *vehicle* means any machine designed or intended to travel over land or water by self-propulsion or which is attached to any self-propelled vehicle. Specifically included in this definition are mopeds and electric assisted bicycles, but not electric personal assistive devices as defined in NCGS § 20-4.01(7b) such as wheelchairs.

On-street parking space means a space designated by the town or the state for parking a motor vehicle on a street right-of-way.

Parking means the standing of any motor vehicle, whether occupied or unoccupied, for a longer period of time than is reasonably necessary to receive or discharge passengers. The stopping and/or standing of a motor vehicle for longer than five (5) minutes shall be deemed parking.

Time-limited parking space means an on-street parking space or parking lot space in which parking is lawful for a specified period that is less than 24 hours.

Truck means a vehicle that has any of the following characteristics: (1) any vehicle with a gross vehicle weight (GVW) rating of 10,000 pounds or more, (2) any tandem axle or triaxle vehicle, or (3) any tractor and tandem vehicles when pulling semitrailers or tandem semitrailers.

Sec. 28-105. – Enforcement and penalties.

The provisions of Section 1-6 of the Town's Code of Ordinances shall apply to all violations under this chapter. If civil penalties for violations of this chapter are set out in the adopted fee schedule then such civil penalties shall be assessed in lieu of those established in Section 1-6.

In addition to the enforcement options set out in Section 1-6, the provisions of this chapter may also be enforced by any legal or equitable means, including summary abatement through the use of towing, and vehicle immobilization devices, if such measures are legal under the circumstance. Failure to pay fines may be cause for vehicle towing or immobilization.

Sec. 28-106. – Processing of citations; payment of fines and penalties.

All citations received for the violations of this chapter shall be presented at Weaverville Town Hall at 30 South Main Street during normal business hours for payment processing or the citation and payment shall be mailed to the Weaverville Finance Department, PO Box 338, Weaverville, NC, 28787, all within 10 days from the time of the offense, except when the time limit expires on a holiday or weekend, and then the time limit is extended to the next working day. Failure to pay within 10 days may subject the violator to late payment penalties and other enforcement action.

Revenues received from violations of this chapter shall be used to defray the cost of enforcing and administering this chapter and the traffic and parking regulations as set out herein.

Sec. 28-107. – ADA accessibility.

The town desires to ensure that all of its citizens and the general public have equal opportunity to participate in its programs and services. The town continually looks for ways to better provide access to its facilities, including its sidewalks and parking and to fully comply with the most current accessibility codes. Persons that wish to make a recommendation or file a grievance should contact the town's ADA Coordinator at 30 South Main Street, Weaverville, North Carolina, 28787, or by calling (828)645-7116.

Sec. 28-107. – Severability.

Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be invalid..

Sec. 28-108. – Conflicts with other provisions of town code.

In the event of a conflict between a provision of this chapter and any other section of the Town's Code of Ordinances, the more stringent provision shall apply.

ARTICLE II. – OPERATION OF VEHICLES

Sec. 28-200. – Establishment of traffic regulations - generally.

Town council has the authority to prohibit, regulate, divert, control, and limit pedestrian and vehicular traffic upon the public streets, sidewalks, alleys, and bridges within the town. Included within this authority is the right to establish traffic control regulations on the public streets and sidewalks within its control, including, but not limited to, the establishment of one-way streets, stop and yield intersections, truck traffic restrictions, and speed limits.

Sec. 28-201. – Traffic control regulations and signage.

Traffic control regulations adopted by the town to establish one-way streets, stop and yield intersections, truck traffic restrictions, and speed limits are fully enforceable if signage and/or

markings are installed. It shall be unlawful to disobey traffic control signs and markings within the town.

Sec. 28-202. - Noisy operation.

No person shall willfully operate any automobile, motorcycle or other motor vehicle in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.

No person shall start the operation of any motor vehicle in such a sudden and violent manner as to create the screeching of the tires of the vehicle. The leaving of tire marks on the pavement shall be prima facie evidence of the unlawful operation of the vehicle in violation of this section.

Sec. 28-203. - Operation of bicycles.

It shall be unlawful for any person to ride a bicycle on the streets of the town after sundown and before sunup if the bicycle is not equipped with a working headlight and a red reflector in the rear.

Sec. 28-204. - Specific operation on sidewalk.

It shall be unlawful to ride bicycles, skateboards, roller skates, rollerblades, animals, and or motor vehicles, including any power-assisted scooters or recreational devices, upon the sidewalks of Main Street between its intersection with Brown Street on the south and its intersection with Hamburg Mountain Road on the north. This section is not intended to restrict in any way the use of wheelchairs or other similar assistive or adaptive devices on the sidewalks within the town.

Sec. 28-205. - Trucks prohibited on certain streets.

When signs designating a "no through trucks" street have been erected, it shall be unlawful for any truck to travel on any of the designated streets for any purpose other than the delivery of goods, parcels or materials to premises on such streets.

Sec. 28-206. - Speed limitations - generally.

The speed limit within the town is 25 miles per hour unless otherwise established by the North Carolina Department of Transportation or town council and posted as such.

ARTICLE III. - STOPPING, STANDING AND PARKING

Sec. 28-200. – Establishment of parking regulations - generally.

Town council has the authority to prohibit, regulate, divert, control, and limit pedestrian and vehicular traffic upon the public streets, sidewalks, alleys, and bridges within the town. Included within this authority is the right to establish parking regulations on the public streets within its control and the public parking lots owned and operated by the town.

Sec. 28-300. – Law enforcement authority - generally.

Town police officers shall have authority to prohibit the stopping, standing, and/or parking of vehicles in order to allow the safe and efficient flow of traffic given the existing traffic conditions. The driver of a motor vehicle shall be required to move when instructed to do so by a police officer.

Sec. 28-301. - Manner of parking - generally.

Where the street is not sign-posted or marked to show how vehicles are to park, all vehicles shall park parallel to the curb, headed in the same direction of traffic, and with the curbside wheels of the vehicle within 12 inches of the edge of the roadway. The driver shall stand or park the vehicle within the lines making the space.

When angled parking is authorized and lines painted on the surface of the street indicate that vehicles may be parked at an angle within the spaces between such painted lines, it shall be unlawful for any person to park a vehicle at such point in any way except at an angle to the curb, as indicated by the lines marking the space. It shall be unlawful for any person to back a vehicle into an angled parking space on a public street or public parking lot so that the rear rather than the front of such vehicle is placed at the curb or the inside of the parking space; provided, however, that nothing contained in this section shall affect the backing of a vehicle into a loading or unloading zone for the purposes of loading or unloading in accordance with the regulations applying to such zones.

The driver shall stand or park the vehicle within the lines marking the space, except that a vehicle may occupy two spaces if it is too long to occupy one space, provided that this exception applies only when the spaces are parallel with the edge of the roadway. Long vehicle parking is not allowed on Main Street between its intersection with Brown Street on the south and its intersection with Hamburg Mountain Road on the north.

Sec. 28-302. - Double parking and parking within a traffic lane prohibited.

No person shall park a vehicle, whether attended or unattended, on the roadway side of another vehicle parked at the edge of the roadway or curb, or on the main traveled portion of any street, unless so directed by competent authority or when a special hazard exists.

Sec. 28-303. - Parking prohibited in certain places.

No person shall stop, stand or park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places unless parking within a marked parking space:

- (1) On the sidewalk. For the purpose of this subsection the sidewalk will be deemed to continue in front of all businesses and residences from a direct line of the sidewalk on each side of such business or residence.
- (2) Within 15 feet of a residential driveway unless permitted by the owner(s) of the property for which the driveway provides access.
- (3) In a crosswalk or within 15 feet of a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign or other official traffic control signal located at the side of a street or roadway.

- (5) On either side of any street approaching a railroad grade crossing within 50 feet of the closest rail; provided, that where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the parking does not interfere with the view in either direction of an approaching locomotive or train.
- (6) Alongside or opposite any street excavation or temporary obstruction, when such stopping, standing or parking would obstruct the flow of traffic.
- (7) Upon any bridge or other elevated structure or within an underpass, except to repair such place.
- (8) Within 15 feet of a public facility driveway, commercial driveway, or alley.
- (9) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.
- (10) Within 25 feet from the intersection of curb lines or, if none, within 15 feet of the intersection of property lines at an intersection of highways or streets.
- (11) Within a traffic lane or upon the traveled portion of a roadway.
- (12) Along any portion of a street without marked parking spaces where the clear distance from the side of the parked vehicle to the marked street centerline or to the edge of a left turn lane is less than 10 feet.
- (13) Within 15 feet of a fire hydrant, unless parking in a marked parking space.
- (14) In any area designated as a fire lane, including designated fire lanes in shopping centers or mall parking lots and all other public vehicular areas; provided, however, persons actively engaged in loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended.

Sec. 28-304. - Parking prohibited at all times on certain streets.

When signs are placed which prohibit parking or when the curbing has been painted yellow in lieu of such signs, no person shall park a vehicle at any time upon any street so marked or signed.

Sec. 28-305. – Marked and timed parking spaces during certain hours.

The town manager is authorized to create and mark parking spaces on the town's public streets and within public parking lots and to designate a maximum time period for which a vehicle may occupy a marked parking space. Parking time restrictions shall apply between the hours of 8:00 a.m. and 6:00 p.m., on any day except Saturday, Sunday and public holidays. The town manager shall cause appropriate signs and markings to be maintained for each time-limited parking lot and for timed-limited parking spaces.

It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any timed-limited parking space, provided that signs, curb or pavement markings, or other markings are placed so as to be sufficiently legible to be seen by an ordinarily observant person which state the length of time beyond which parking is prohibited.

The changing of the position of a vehicle from one parking space directly to another within the same block shall be deemed one continuous parking period and shall not defeat the action of this section.

The town manager has the authority to temporarily suspend parking time limits to accommodate particular activities, including parades and special events.

Sec. 28-306. – Exemptions from limited time zone parking restrictions.

The following are exempt from limited time zone parking restrictions:

- (1) Vehicles parked by individuals attending a funeral, including the funeral director and his or her employees, if the funeral is organized by a funeral director licensed pursuant to NCGS § 90-210.25, during the time period beginning one hour before the funeral is scheduled to begin, while the funeral is in progress, and ending one hour after the funeral has ended;
- (2) Town vehicles while parked to facilitate construction, maintenance, or repair of pipes, apparatus, and equipment used for the supply and transmission of potable water; and
- (3) Vehicles parked by any of the following, while engaged in the performance of their respective occupations: firefighting personnel, law enforcement personnel, EMS personnel, code enforcement personnel, emergency management personnel and emergency management workers.

Sec. 28-307. Prohibited purposes - generally.

No person shall stand or park a vehicle within any marked parking space for the purposes of:

- (1) Displaying it for sale;
- (2) Washing, greasing, or repairing it, except repairs necessitated by an emergency;
- (3) Storing it, when such storage is by garages, dealers, or other persons and when not incidental to the bona fide use and operation of such vehicles; or
- (4) Storing any detached trailer or van when the towing unit has been disconnected, or for the purposes of transferring merchandise or freight from one vehicle to another.

Sec. 28-308. – Parking so as to block driveway as nuisance.

The stopping, standing, or parking of a vehicle in a street in front of the entrance to a public or private driveway so as to cause the blocking of such driveway and to prohibit the use of such driveway for the purpose of gaining access to and from the street is hereby declared to be a public nuisance.

In addition to the penalties prescribed for the violation of this Code, insofar as such section relates to the stopping, standing, or parking of a vehicle in front of a public or private driveway, in the event of the occurrence of a public nuisance as declared in subsection (a) of this section, such public nuisance may be summarily abated and, to that end, the police officers of the town shall cause any vehicle causing such public nuisance immediately to be removed from in front

of the entrance to the public or private driveway. In order to affect the abatement of such nuisance, the police officers shall cause the vehicle to be towed away and stored for the use of the owner. The cost of such towing and storing shall be borne by the offender as part of the cost of the enforcement of law.

Sec. 28-309. – ADA accessibility.

ADA accessible or handicapped parking is provided at certain locations within the town and is regulated by NCGS § 20-37.6. Persons that require an additional accommodation should contact the town’s ADA Coordinator at 30 South Main Street, Weaverville, North Carolina, 28787, or by calling (828)645-7116.

Sec. 28-310. – Abandoned motor vehicles.

Abandoned motor vehicles are subject to the provisions of Article II of Chapter 9 of the Town’s Code of Ordinances.

-
2. It is the intention of Town Council that the sections and paragraphs of this Ordinance are severable and if any section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs or sections of this Ordinance, since they would have been enacted by Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid section or paragraph.
 3. These amendments shall be effective immediately upon adoption and immediately codified.

ADOPTED THIS the ____ day of _____, 2020, by a vote of ___in favor and ___ against.

ALLAN P. ROOT, Mayor

ATTESTED BY:

APPROVED AS TO FORM:

DEREK K. HUNINGHAKE, Town Clerk

JENNIFER O. JACKSON, Town Attorney

**WEAVERVILLE TOWN CODE –
CHAPTER 28 - TRAFFIC**

ARTICLE I. - IN GENERAL

Sec. 28-1. - ~~Compliance with traffic signals.~~

It shall be unlawful for any person to fail to observe the signal lights installed in the corporate limits of the town.

Commented [JJ1]: Deleted; already State law

ARTICLE II. - OPERATION OF VEHICLES

Sec. 28-23. - ~~Noisy operation.~~

If any person shall willfully operate any automobile, motorcycle or other motor vehicle in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise, he shall be guilty of a misdemeanor.

If any person shall start the operation of any motor vehicle in such a sudden and violent manner as to create the screeching of the tires of the vehicle, he shall be guilty of a misdemeanor. The leaving of tire marks on the pavement shall be prima facie evidence of the unlawful operation of the vehicle in violation of this section.

Commented [JJ2]: De-criminalized; see Sec. 28-202

Sec. 28-202. - Operation of bicycles.

- (a) ~~Riding on sidewalks.~~ It shall be unlawful for any person to ride a bicycle on the sidewalks in the corporate limits of the town.
- (b) ~~Riding at night.~~ It shall be unlawful for any person to ride a bicycle on the streets of the town after sundown and before sunup if the bicycle is not equipped with a working headlight and a red reflector in the rear.

Commented [JJ3]: Deleted - duplicate and inconsistent with Sec. 28-33.
See Sec. 28-204

Commented [JJ4]: Moved to Sec. 28-203

Sec. 28-33. - ~~Specific operation on sidewalk.~~

It shall be unlawful to ride bicycles, skateboards, roller skates, animals, and motor vehicles, upon the sidewalks of Main Street between the fire department and Contel buildings on the south and Moore Street on the north.

Commented [JJ5]: Updated and moved to Sec. 28-204

Sec. 28-34. - ~~One-way streets.~~

Upon those streets and parts of streets indicated on the official traffic maps, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Commented [JJ6]: Moved to general provisions at Sec. 28-200 and 28-201; deleted reference to official traffic maps as none have been adopted. Compliance is mandated under State law.

Sec. 28-35. - Stop intersections.

When stop signs are placed upon streets that intersect a through street, as designated on the official traffic maps, the driver shall bring his vehicle to a stop before entering the intersection; and he shall not proceed into or across the through street until he has first determined that no conflict with traffic will ensue.

Commented [JJ7]: Deleted as it is already State law.

Sec. 28-36. - Trucks prohibited on certain streets.

When signs designating a "no through trucks" street have been erected, as indicated on the official traffic maps, it shall be unlawful for any truck to travel on any of the designated streets for any purpose other than the delivery of goods, parcels or materials to premises on such streets.

Commented [JJ8]: Moved to general provisions at Sec. 28-200 and 28-201

Sec. 28-37. - Speed limitations generally.

Unless the town council stipulates specific speed limits, as indicated on the official traffic maps, the provisions of the motor vehicle law of the state shall be applicable in all sections of the town. The official traffic maps are on file and available in the town offices.

Commented [JJ9]: Default speed limit set at 25 mph and moved to Sec. 28-206

Sec. 28-38. - Truck traffic on residential streets.

(a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Commented [JJ10]: Definitions moved to 28-104, limitations moved to Sec. 28-200 and 28-201

Gross vehicle weight (GVW) means the weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load on the vehicle.

Truck means a vehicle that has any of the following characteristics:

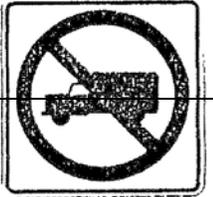
- (1) Any vehicle with a gross vehicle weight (GVW) rating of 10,000 pounds or more.
- (2) Any tandem axle or triaxle vehicle.
- (3) Any tractor and tandem vehicles when pulling semitrailers or tandem semitrailers.

(b) **Limited.**

Commented [JJ11]: See Sec. 28-200 and 28-201

- (1) All trucks within the town shall be prohibited from traveling upon municipal streets (i.e. those streets not included in the state highway system).
- (2) The prohibition specified in subsection (b)(1) is subject to the following exceptions:
 - a. Trucks are allowed to travel upon any street which is the exclusive means or abuts their point of destination for delivery of goods or services.
 - b. Trucks are allowed to travel upon any street which is part of a town-authorized detour.

- c. Authorized emergency vehicles are allowed to travel upon any street necessary in the exercise of their duties.
 - d. Trucks which are owned, operated by or under contract to a public utility, electric, cablevision or telephone corporation or the town are allowed to travel upon any street necessary in the installation, restoration or emergency maintenance of utility services.
 - e. Wrecker vehicles which are towing a disabled vehicle or combination of vehicles in an emergency are allowed to travel upon any street which is en route to the nearest feasible point for parking or storage of the disabled vehicles.
 - f. Vehicles used primarily for the transportation of passengers, provided that said vehicle is traveling upon an established bus route, or has on board passengers for hire, are allowed.
- (c) *Sign required.* The town shall clearly post the R5-2 sign (indicated below), Manual on Uniform Traffic Control Devices, along prohibited streets.



- (d) **Penalty.** Pursuant to G.S. 14-4, any person who violates this section shall be responsible for any infraction and shall be required to pay a penalty of not more than \$50.00. Each violation shall be a separate and distinct offense.

Commented [JJ12]: Moved to Article I; see Sec. 28-105 and 28-106

Secs. 28-39—28-70. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

DIVISION 1. - GENERALLY

Commented [JJ13]: Divisions and Division titles can be deleted since Division 2 is recommended to be deleted.

Sec. 28-71. - Definitions.

Commented [JJ14]: Definitions moved to Sec. 28-104

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curb means the boundaries of the public streets of the town.

Double parking means a motor vehicle parked between a motor vehicle parked at the edge of a curb and the center of a street or the curb on the opposite side of such street.

Parking means the stopping or bringing of any motor vehicle to a complete stop for a longer period of time than is reasonably necessary to receive or discharge passengers.

- (1) Where parking is prohibited in this article, the stopping of a motor vehicle for a longer period of time than five minutes shall be deemed to be in violation of the provisions of this article.

- (2) Any policeman of the town shall have authority to regulate such parking up to and including the five minutes, taking into consideration the existing traffic conditions; and the driver of a motor vehicle shall be required to move when instructed so to do by a policeman.

Sec. 28-72. - Parallel parking required

Commented [JJ15]: See Sec. 28-301

Where not otherwise indicated by this chapter and where the street is not signposted or marked to show how vehicles shall park, all vehicles shall park parallel to the curb and not more than 12 inches from the curb.

Sec. 28-73. - Double parking prohibited.

Commented [JJ16]: See Sec. 28-302

No person shall double park or stop a vehicle next to and alongside any vehicle parked at the curb so as to obstruct the normal movement of traffic.

Sec. 28-74. - Parking prohibited in certain places.

Commented [JJ17]: See Sec. 28-303

No person shall stop, stand or park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places u:

- (1) On the sidewalk.
- (2) Within an intersection or in front of a private driveway.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign or other official traffic control signal located at the side of a street or roadway.
- (5) On either side of any street approaching a grade crossing within 50 feet of the closest rail; provided, where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the parking does not interfere with the view in either direction of an approaching locomotive or train.
- (6) Alongside or opposite any street excavation or obstruction, when such stopping, standing or parking would obstruct traffic.
- (7) Upon any bridge or other elevated structure.
- (8) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium or any public building or a fire hydrant or fire station
- (9) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.
- (10) Within 25 feet from the intersection of curblines or, if none, within 15 feet of the intersection of property lines at an intersection of highways or streets.
- (11) Within a traffic lane or upon the traveled portion of a roadway.

Sec. 28-75. - Parking prohibited at all times on certain streets.

When signs are placed which prohibit parking or when the curbing has been painted yellow in lieu of such signs, no person shall park a vehicle at any time upon any street so marked or signed and indicated on the official traffic maps of the town.

Commented [JJ18]: See Sec. 28-304

Sec. 28-76. - Parking time limited or prohibited during certain hours.

When signs are erected, placed or installed in each block giving notice, no person shall park a vehicle for longer than the period indicated on the signs or during such hours as prohibited by such signs upon any of the streets described in the official traffic maps of the town.

Commented [JJ19]: See Sec. 28-305

Sec. 28-77. - Penalties.

Unless otherwise provided by law, violation of any provision of this article shall constitute a civil penalty in the amount of \$10.00. Each violation shall be a separate and distinct offense.

Commented [JJ20]: Moved to Article I; see Secs. 28-105 and 28-106; fee schedule to be amended to update and add fees

DIVISION 2. - OFF-STREET PARKING AND LOADING

Sec. 28-101. - Plans required.

Plans for the erection, enlargement, use or conversion of any building shall include provision for permanent off-street parking and loading space in the amount specified by this division. Such parking space may be provided in a parking garage or parking lot, or in driveways serving single- and two-family residences. Parking and loading facilities provided in accordance with the terms of this division shall not subsequently be reduced.

Commented [JJ21]: It is recommended that this Division be deleted as the provisions are development related and/or have duplicate provisions in Ch. 36

Commented [JJ22]: To the extent not a duplicate, should be moved to Sec. 36-176 and Sec. 36-177

Sec. 28-102. - Parking lots to be improved.

Parking lots providing the off-street parking space required by this division shall be built or improved, and maintained with good quality crushed stone compacted to a depth of four inches; however, this requirement shall not apply to parking space required for residential structures having less than five dwelling units.

Commented [JJ23]: Duplicate provision, see Sec. 36-176 which provides for an "all weather surface."

Sec. 28-103. - Joint use of parking lots.

The required parking space for any number of separate uses may be combined in one lot, but the required number of spaces assigned to one use may not be assigned to another for use during the same hours.

Commented [JJ24]: Policy question; should be added to Sec. 36-176

Sec. 28-104. - Free flow of traffic.

Provision shall be made for the free flow of traffic so as not to cause undue congestion or safety hazards.

Commented [JJ25]: Should be moved to Ch. 25 and 36.

Sec. 28-105. - Remote parking space.

All dwelling units, motels, tourist courts, tourist homes and mobile home parks shall have the required parking spaces provided on the lot on which such dwelling type unit is located. For all other uses, if the off-street parking space required by this division cannot be reasonably provided on the same lot on which the use is located, such space may be provided on any land within 800 feet walking distance of any entrance to such use, provided that the district use regulations for the district in which the remote parking space is located permit the use which the parking space serves.

Commented [JJ26]: Policy question; should be updated and moved to Ch. 36

Sec. 28-106. - Dimensional requirements.

For purposes of this division, an off-street parking space shall be no less than nine feet wide and 20 feet long, with adequate ingress and egress provided for each off-street parking space.

Commented [JJ27]: Duplicate provision that is inconsistent with Sec. 36-176; 9' x 18' in Sec. 36-176 is consistent with Building Code

Sec. 28-107. - Minimum parking requirements.

The following minimum parking requirements shall be met:

(1) *Residential and related uses.*

- a. Any residential use, on the lot for each dwelling unit 2
- b. Roominghouse or boardinghouse, and tourist home, for each room to be rented 1
Plus, for the owner or operator 1
Plus, for each three employees 1
- c. Hotels and motels, space for each room 1
Plus additional spaces as required for other uses within the hotel or motel.
- d. Doctor's or dentist's office in residence, per doctor in addition to residence requirements 3
- e. Professional office other than doctor or dentist or home occupation in operator's residence, per office or home occupation in addition to residence requirements 1

(2) *Public and semiprivate uses.*

Commented [JJ28]: Duplicate provision that is inconsistent with Sec. 36-176

- a. Hospitals, per bed intended for patients (except bassinets) 1
 Plus, for each medical staff member 1
 Plus, space for each two employees on the shift of greatest employment 1
 - b. Auditoriums, stadiums, assembly halls, gymnasiums, theaters, community recreation centers, churches, museums, art galleries and public libraries, per four fixed seats in the largest assembly room, or per 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or per 150 square feet of gross floor area, whichever is needed by the facility 1
 Plus, space for each two employees on the shift of greatest employment 1
 - c. Elementary school and junior high school, for each classroom and administrative office 2
 - d. Senior high school, for each four students for which the building was designed 1
 Plus, for each classroom and administrative office 1
 - e. Public or private club and public utility buildings, for each 100 square feet of gross floor area 1
 - f. Sanitariums, rest homes, convalescent homes, homes for the aged and similar institutions, for each three beds 1
 Plus, for each staff or visiting doctor 1
 Plus, for each four employees 1
- (3) *Offices and banks.*
- a. Clinic or doctor's office, for each doctor 5
 Plus, for each two employees 1
 - b. Banks, for each 500 square feet of gross floor area 2
 Plus, for each two employees 1
 - c. Professional and business offices, for each 200 square feet of gross floor area 1
- (4) *Retail and other commercial.*
- a. Retail stores such as pet and specialty shops, and stores selling clothing, variety merchandise, jewelry, sporting goods, records, and convenience goods (such as food, drugs, liquor, small hardware, etc.), for each 200 square feet of gross floor area 1
 - b. Retail stores such as stores selling merchandise generally characterized by high bulk and high cost (such as furniture, appliances, large hardware items, business machines, restaurant equipment, bicycles, guns, light fixtures, floor covering, radios, televisions, auto accessories, building materials, home furnishings, etc.), for each 360 square feet of gross floor area 1

- c. New and used car sales, house and truck trailer sales, outdoor equipment, and machinery sales, commercial nurseries, roadside stands, and farm implements, for each salesperson 3
Plus, for each two employees on the shift of greatest employment 1
 - d. Service stations, for each grease rack 5
Plus, for each two employees on the shift of greatest employment 1
 - e. Other retail trade or services, for every 180 square feet of gross floor area 1
 - f. Restaurants, diners, nightclubs, for each two seats 1
Plus, for each two employees on the shift of greatest employment 1
 - g. Funeral home, for each four seats in the chapel or parlor 1
 - h. Indoor and outdoor commercial recreation, excluding golf courses, for each 150 square feet of gross floor, building or ground area devoted to such use 1
Or, for each four seats of facilities available for patron use 1

Whichever is needed by the facility. Land not occupied by customers (such as land in front of the driving tees of a driving range) will be excluded when calculating parking requirements.
 - i. Golf courses, per hole 6
Plus, for each two employees on the shift of greatest employment 1
- (5) *Wholesale and industrial uses*, for each two employees on the shift of greatest employment 1

Sec. 28-108. - Off-street loading.

One or more loading berths or other space shall be provided for standing, loading or unloading operations. A loading berth shall have minimum dimensions of 12 feet times 25 feet with 14 feet of overhead clearance; a loading space need not be a full berth but shall be of sufficient size to allow normal loading and unloading operations appropriate to the property served, but in no case shall the use of such space cause traffic congestion or safety hazards. For retail operations (such as restaurant and dining facilities within hotels and office buildings) with a total usable floor area of 20,000 square feet of floor area a loading berth is required.

Commented [JJ29]: Duplicate provision that is inconsistent with Sec. 36-176 and Sec. 36-177

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020
SUBJECT: Storage for Public Works Department
PRESENTER: Finance Director
ATTACHMENTS: Budget Amendment Form

DESCRIPTION/SUMMARY OF REQUEST:

As Council members will recall, there was a consensus among Town Council in 2018 to allow Public Works to use some of the proceeds from the sale of the old bus garage to replace storage that they would be losing with this sale, as well as the loss of the motor grader building and another storage building (for the construction of the new community center phases 1 and 2). At that time, the Public Works Director prepared an estimate to build a storage building to the north of the existing facility. The estimated cost for this building was \$784,000. Since this time, the Director has developed a new plan in concert with the Town Manager.

This plan involves enclosing two of the existing storage bays at Public Works for storage of Santa's sleigh, various Christmas decorations, downtown holiday lights, golf cart, cones, signs, etc. Enclosing these bays also allows for moving the wormy chestnut boards (removed from the old community center) from the rented storage unit to this space, saving \$120 per month for the next 12 months. This plan also includes the addition of 5 open garage structures (25' x 31') on the floor of the old quarry for additional needed storage.

This new plan, using the existing floor of the former quarry, eliminates the majority of the 2018 estimated costs while providing the off-season storage space needed by Public Works. The new plan is estimated at \$98,100 and the Town Manager recommends a budget amendment in this amount in order to fund the project from the General Fund Balance.

COUNCIL ACTION REQUESTED:

The Town Manager recommends approval of the attached budget amendment.

**Budget Amendment
Town of Weaverville**

What expense accounts are to be increased?

<u>Account</u>	<u>Account Description</u>	<u>Transfer Amount</u>
010-450-451-50300	Streets – Capital Improvements	\$73,575.00
030-700-713-50300	Water Maint – Cap Improvements	\$24,525.00

What expense account(s) are to be decreased or additional revenue expected to offset expense?

<u>Account</u>	<u>Account Description</u>	<u>Transfer Amount</u>
010-004-310-09900	Appropriated Fund Bal (General)	\$98,100.00

Justification: Please provide a brief justification for this budget amendment. *Additional storage needed at Public Works due to sale of former bus garage, and demolition of two storage buildings to make room for new community center.*

Authorized by Finance Officer	Date
Authorized by Town Manager	Date
Authorized by Town Council (if applicable)	Date

Budget Ordinance Section 7:

- B. The Budget Officer or his/her designee is hereby authorized to distribute departmental funds based upon the line item budgets and make expenditures therefrom, in accordance with the Local Government Budget and Fiscal Control Act.
- C. The Budget Officer or his/her designee may authorize transfers between line items, expenditures and revenues, within a department or division without limitation and without a report being required.
- D. The Budget Officer or his/her designee may transfer amounts up to 5%, but not to exceed \$10,000 monthly, between departments, including contingency appropriations, but only within the same fund. The Budget Officer must make an official report on such transfers at a subsequent regular meeting of Town Council.
- E. The Budget Officer or his/her designee may not transfer any amounts between funds, except as approved by Town Council, as a budget amendment.

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: February 24, 2020

SUBJECT: Request for Public Street Commitment – Lillie Farm Cove

PRESENTER: Town Manager

ATTACHMENTS: Aerial Map Showing Streets
Recorded Subdivision Plat
Email with Staff Report and Recommendation
Draft Commitment Letter
Policy Concerning Street Standards and Acceptance of
Private Streets (adopted by Council January 27, 2020)

DESCRIPTION/SUMMARY OF REQUEST:

Mountain Housing Opportunities is developing a major subdivision off Critter Trail at the northern end of Main Street that is known as Lillie Farm Cove. The development is a 46 lot affordable housing subdivision. As a part of this project the developer has construction its streets to the Town’s street standards and requests that the following streets be accepted into the Town’s public street system: Declan Drive, Yarrow Meadow Road, Lillie Farm Lane, and the portion of Critter Trail from North Main Street to Lillie Farm Lane.

The Public Works Director has verified that the street construction for these streets was observed by the Town’s Public Works staff during the critical construction phases and recommends that they be accepted into the public street system. The attached staff report and recommendation includes a few conditions that would be appropriate to include in the public street commitment letter should Town Council decide to accept these streets. Both the Town Manager and the Public Works Director recommend commitment/acceptance of these streets with those conditions. A draft commitment letter is also attached for Town Council’s review.

COUNCIL ACTION REQUESTED:

The Town Manager recommends that Town Council take action to approve a public street commitment for Declan Drive, Yarrow Meadow Road, Lillie Farm Lane, and the portion of Critter Trail from North Main Street to Lillie Farm Lane, subject to the conditions as stated in the attached staff recommendation and commitment letter.

From: [Dale Pennell](#)
To: [Selena Coffey](#); [Jennifer Jackson](#)
Cc: [Dale Pennell](#)
Subject: FW: Request for Public Street Commitment - Lillie Farm Cove Streets
Date: Monday, February 17, 2020 11:41:09 AM

Selena and Jennifer: Here is a report that I have prepared with the help of Rick Harper and Eric Cutshall for the streets in Lillie Farm Cove. If you have any questions, please let me know.

In 2017, staff from the Public Works (PW) Department observed the construction of the streets within the Lillie Farm Cove development, whose owner was Mountain Housing Opportunities and whose contractor was Tennoca Construction. The various components of the street construction were verified by PW staff as meeting the requirements of the town, including fill materials, storm drainage piping, drainage structures and grates, concrete curb, concrete sidewalk, concrete drive entrances, subgrade, aggregate base course (ABC) stone, and asphalt paving. Our PW staff also verified that these components were placed and/or installed in compliance with our standards, including thickness, compaction, and width. During subsequent visits and inspections since 2017, PW staff has observed few issues or problems with this construction. We hereby recommend acceptance of the following streets and their approximate length:

- Critter Trail (0.04 miles)
- Lillie Farm Lane (0.13 miles)
- Yarrow Meadow Road (0.11 miles)
- Declan Drive (0.03 miles)

Prior to final acceptance, we recommend the following maintenance work be performed by the owner/contractor to the town's satisfaction:

1. Raise the sunken hydrant valve box on Lillie Farm Road and repair the surrounding cracked pavement.
2. Flush out the entire storm drainage system, removing any accumulated sediment from pipes or structures, and properly collecting and disposing of any debris or sediment that is removed.
3. Continue to use proper erosion control measures during construction of the remaining homes, to prevent loss of sediment into the drainage system.
4. Wash and/or sweep the pavement and concrete surfaces to remove any accumulations of mud or sediment.

Thank you for this opportunity to provide Town Council with our recommendations on these streets.

Thanks,

Dale Pennell, PE, PLS
Public Works Director
Town of Weaverville
15 Quarry Road

The Town of
Weaverville
NORTH CAROLINA

February 24, 2020

Mountain Housing Opportunities, LLC
64 Clingman Avenue, Suite 101
Asheville, NC 28801

Re: Public Street Commitment - Lillie Farm Cove

Dear Ladies and Gentlemen:

On 24 February 2020 Town Council to action to agree to take the following streets into the Town's public street system, subject to the conditions and procedures stated in this letter: Declan Drive, Yarrow Meadow Road, and Lillie Farm Lane, and the portion of Critter Trail from its intersection at North Main Street to its intersection with Lillie Farm Lane.

Prior to final acceptance you must conduct or continue the following maintenance work to the satisfaction of the Town's Public Works Department:

1. Raise the sunken hydrant valve box on Lillie Farm Land and repair the surrounding cracked pavement;
2. Flush the entire storm drainage system, remove any accumulated sediment from pipes or structures, and property collect and dispose of any debris or sediment that is removed;
3. Continue to use proper erosion control measures during construction of the remaining houses to prevent loss of sediment into the drainage system; and
4. Wash and/or sweep the pavement and concrete surfaces to remove any accumulation of mud or sediment.

You will have not longer than six (6) months from the date of this letter to complete the items stated above. Failure to complete these items within the time stated will cause this commitment to automatically terminate. You must notify the Public Works Department prior to scheduling this work so that the Town will be given an opportunity to make on-site observations as it deems necessary. Failure to do so may disqualify your streets from final acceptance.

At such time as the above work has been successfully completed, please notify the Public Works Department and they will request that your streets be put on Town Council's agenda for final acceptance. The final plat of your subdivision that is recorded in Book 194 at Page 158, Buncombe County Registry, does adequately show the required street right-of-way so it will be used for the preparation of the deed which will transfer the streets and related improvements to the Town. The Town Attorney will be in touch with you concerning the deed once the required work has been completed.

Sincerely,

Selena D. Coffey, MPA, ICMA-CM
Town Manager

cc: Dale Pennell, Public Works Director

30 South Main Street • Weaverville, NC 28787 (PO Box 338)

(828) 645-7116 • Fax (828) 645-4776

www.weavervillenc.org

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND

ACCEPTANCE OF PRIVATE STREETS

Sec. 1. – Public Street System – Town Council Discretion

The Town of Weaverville maintains a public street system which includes streets and sidewalks that are publicly maintained and open for use by the public. The public street system also includes curbing and storm drainage systems that are connected or related to the streets.

In its sole discretion the Weaverville town council has the authority and right to determine the location and extent of its public street system and which streets and related infrastructure are to be publicly maintained by the town. Nothing contained in this article should be construed as a limitation on the absolute discretion of town council with regard to the town's street system.

Regarding the town's public street system, town council may consider, but is not limited to, the following factors:

general operational needs of the town, general fiscal needs and financial standing of the town, town strategic plans, comprehensive land use plans, economic development, traffic patterns, traffic or transportation plans, interconnectivity to other public streets, location of street, length and width of street and right-of-way area, topography and slope, number and types of uses along the street, affordable housing considerations, standards of construction of street and related infrastructure, anticipated cost of maintenance and repairs to the street, cost of maintenance of the public street system as a whole, any other factor found by town council to be reasonable.

Sec. 2. – All Streets are Private Unless Accepted into a Public Street System

All streets are private unless accepted into a public street system. The notation of a "public street" on a recorded plat serves only as an offer of dedication for that street for public use. A developer/owner cannot obligate the town to take over a street. The approval of a plat shall not be deemed to constitute or affect the acceptance of the town or by the public of the dedication of any street or related infrastructure shown on the plat. Streets remain private until the town (or other public road system such as North Carolina Department of Transportation) formally accepts the street into its public street system.

Sec. 3. – Private Street Standards

The minimum streets standards for all private residential streets constructed within the town are the standards set forth in the North Carolina Department of Transportation

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND

ACCEPTANCE OF PRIVATE STREETS

Subdivision Road Minimum Construction Standards, as the same shall from time to time be amended.

Streets, including internal circulation streets within parking lots, serving multi-family residential, institutional, commercial and industrial uses and manufactured home parks, and any other use except for residential, must be constructed in such a way as to allow reasonable access for the anticipated traffic associated with the specific use being served and for ease of emergency access.

For all private streets constructed within the town, the requirements of the North Carolina Fire Prevention Code as adopted by the Town of Weaverville and as the same may from time to time be amended, applicable for the specific use of the property served, must be complied with.

Sec. 4. – Public Street Standards

Ownership and maintenance of public streets is costly and it is in the town's public interest to insure that streets accepted into the town's public street system are well constructed so that the useful life of each street is maximized. The town's public street standards as are on file at the public works department are hereby readopted for all streets that are to be accepted into the town's public street system.

In addition, the requirements of the North Carolina Fire Prevention Code as adopted by the Town of Weaverville and as the same may from time to time be amended, applicable for the specific use of the property served, must be complied with for all streets that are to be accepted into the town's public street system.

Sec. 5. – New Streets

In order for any proposed street to be eligible for acceptance into the town's public street system, it must first make a declaration as required by Sec. 7 and make application for a public street commitment as set out in Sec. 8.

To be eligible for acceptance into the town's public street system, a street and its related infrastructure must be constructed in accordance with the town's adopted public street standards, as the same may from time to time be amended. In addition, the requirements of the North Carolina Fire Prevention Code as adopted by the Town of Weaverville and as the same may from time to time be amended, applicable for the specific use of the property served, must be complied with.

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND

ACCEPTANCE OF PRIVATE STREETS

Site visits and observations by the public works department and town review of certain test results are required at the completion of certain critical phases of the street system construction including specifically the following:

- (a) On-site review of site clearing and grubbing prior to grading;
- (b) On-site review of grading and fill operations and review of compaction test results on all fill areas under the roadway;
- (c) On-site review of storm drainage system and review of compaction test results of the storm drainage trench;
- (d) Review of compaction test results for all utilities installed in the roadway;
- (e) On-site review of curb/curb and gutter, sidewalks, and drive entrances;
- (f) On-site review of proof-rolling of the sub-grade material;
- (g) On-site review of installation of the ABC stone base and review of compaction test results;
- (h) On-site review of proof-rolling of the stone base; and
- (i) On-site review of asphalt paving and review of compaction test results.

The developer/owner must notify the public works department at each of the above phases in order to allow the Town's public works department the opportunity to review the work. Failure on the part of the developer/owner to notify public works at each of these critical construction phases may disqualify a street from eligibility for acceptance into the town's public street system or may cause work to have to be uncovered and redone at the expense of the developer/owner.

Sec. 6. – Streets Serving Multi-Family Residential, Institutional, Commercial and/or Industrial Uses or Manufactured Home Parks

All streets, including internal circulation streets within parking lots, serving multi-family residential, institutional, commercial or industrial uses, or manufactured home parks, will remain private unless, in town council's discretion, such streets further a significant public interest.

For the purposes of this policy multi-family residential is defined as any multi-family dwelling with 5 or more residential dwelling units. The definitions included in Town Code Sec. 36-5 shall apply and the use categories set out in the table of uses contained in 36-105 can be used as a guide in determining whether a specific use is institutional, commercial, or industrial.

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND ACCEPTANCE OF PRIVATE STREETS

Sec. 7. – Developer/Owner Declaration Concerning New Streets

Prior to development approval, developers/owners constructing new streets must declare whether they will be requesting that the new streets be accepted into the town's public street system or are to remain private. Requests for acceptance into the public street system must follow the procedures for a public street commitment as set out in this article and such commitment must be decided prior to development approval.

Streets that are declared to be private will not be observed by town representatives and will not be eligible for inclusion into the public street system.

Sec. 8. – Public Street Commitment

If a developer/owner wishes to have a street accepted into the town's public street system then the developer/owner must request a public street commitment letter in accordance with this section.

- (a) Application for public street commitment – A developer/owner that desires a public street commitment shall submit such request in writing on such forms and in such detail as prescribed by the town manager.
- (b) Processing fee – At the time of requesting a public street commitment letter, the applicant shall pay to the town a nonrefundable processing fee in the amount set forth in the town's adopted fee schedule.
- (c) Staff review and recommendation – Upon receipt of an application, town staff shall evaluate the request and make recommendations to town council, including any recommended conditions to be included in the commitment letter.
- (d) Town council action – Town council shall consider and take action to either decline acceptance or to issue a declaration of intent to accept streets upon condition that streets be constructed to Town standards with required periodic Town inspections, and/or other conditions as deemed necessary by town council.
- (e) Issuance of street commitment letter – Upon town council approval the town manager will issue a street commitment letter outlining the conditions imposed and requirements for town verification of compliance with conditions and requirements, and applicable time limits. The street commitment letter is transferable by the applicant, but is only valid for the original project and for streets and related infrastructure that are the same as or substantially similar to what was originally proposed.
- (f) Expiration, termination, and revocation of public street commitment letter –
 - (1) A public street commitment is valid for one (1) year from its issuance but, upon request, may be extended for an additional one (1) year period by the town manager upon a showing of good reason for the delay.

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND

ACCEPTANCE OF PRIVATE STREETS

- (2) Once construction of a street has begun the developer/owner must use reasonably diligent efforts to complete the construction of the street in a reasonable time. If more than one (1) year elapses from the commencement of construction without any work being done on the street, then the street shall be deemed abandoned and the commitment letter shall terminate.
- (3) If a developer/owner fails to call for on-site observation of critical construction phases by town representatives or conduct the required testing, or if town standards have not been met then the public works director shall report such information to town council and the public street commitment letter is subject to revocation by town council.
- (4) The developer/owner will be given an opportunity to be heard by town council concerning termination or revocation of the public street commitment letter.

Sec. 9. – Existing Private Streets

- (a) Private streets existing as of January 27, 2020, may be eligible for acceptance into the town's street system but must submit an application for a public street commitment letter in accordance with Sec. 8 above, prior to May 1, 2020.
- (b) If an application for a public street commitment letter for an existing private street was not submitted in writing prior to May 1, 2020, then that existing private street is ineligible for acceptance into the public street system.
- (c) For private streets that were not observed by town representatives during critical construction phases, acceptance may be conditioned upon supplemental review and testing at the developer/owner's expense to verify that town public street construction standards were complied with and repair work to bring those streets up to town public street standards.
- (d) Supplemental testing and inspection to determine whether town public street construction standards were met may include any or all of the following or other items as required by town council:
 - (1) Public works director, or his/her designee, and town attorney review all recorded plats showing width and location of reserved rights-of-way for streets, sidewalks, and storm drainage to confirm adequacy of right-of-way;
 - (2) Public works director, or his/her designee, to review live video feed of the entire length of the storm drainage system showing clear lines or identifying areas that need to be repaired by developer/owner (see subsection (b) below concerning repairs);

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND ACCEPTANCE OF PRIVATE STREETS

- (3) Public works director, or his/her designee, to review all engineering plans for all phases of construction of street and roadbed in order to determine fill areas so that public works can determine where core drill testing needs to be conducted;
 - (4) Developer/owner to conduct core drill testing of concrete/asphalt, stone base, and soil subgrade for all sidewalks, curb and gutter, and pavement, at minimum 100-foot intervals at locations determined by public works;
 - (5) Testing lab, selected by public works, to determine compaction of asphalt, stone base, and soil subgrade, and strength of concrete, for all core drill samples and report findings to developer and public works;
 - (6) Public works director, or his/her designee, to review findings and determine if any problem areas exist;
 - (7) If problem areas are identified, developer/owner to conduct additional core drill testing in problem areas with testing to occur at closer intervals and at such locations as determined by public works;
 - (8) Testing lab, previously selected by public works, to determine compaction of asphalt, stone base, and soil subgrade, and strength of concrete, for all additional core drill samples and report findings to developer and public works;
 - (9) Based on the final testing results the public works director, or his/her designee, to determine what repairs are necessary to bring streets and/or related infrastructure up to town standards.
- (e) All supplemental testing and inspections must be completed within 3 months of the issuance of a public street commitment. Failure to complete such testing within this prescribed time limit will result in the automatic expiration of the commitment with or without notice to the developer/owner.
 - (f) All repair work necessary to bring a street up to town public street standards must be completed within 6 months of the completion of the testing or within 9 months of the issuance of the public street commitment letter, whichever is sooner. Failure to complete such testing within the time prescribed will result in termination of the commitment unless good cause can be shown and the time allowed for repair is extended by town council.
 - (g) For all repair work undertaken the developer/owner is to notify public works in advance so that a public works representative can be present on site during the repair work.

TOWN OF WEAVERVILLE

POLICY CONCERNING STREET STANDARDS AND

ACCEPTANCE OF PRIVATE STREETS

Sec. 10. – Report and Recommendation of Public Works Director

Prior to town council's acceptance of any street and related infrastructure into the public street system, the public work's director shall submit a report and recommendation for town council's consideration. The report should address the developer/owner's compliance with any conditions or requirements stated in the public street commitment letter. The report should also include a recommendation as to the amount of a reasonable repair guaranty.

Sec. 11. – Warranty and Repair Guaranty.

As a condition of acceptance into the public street system, all streets and related infrastructure shall be warranted by the person, corporation or company making the improvements for a period of two (2) years from the date of final approval which warranty shall be in writing and include an indemnification clause, agreeing to indemnify and hold the town harmless from any such claims during the two-year warranty period. As a condition of acceptance into the public street system, the developer/owner shall be required to submit a repair guaranty in a reasonable amount set by town council for three (3) years following the warranty period.

Sec. 12. – Street Right-of-Way Plat.

Once the street and related infrastructure, or any required repair work, are completed and approved by the public works department, developer/owner shall provide to the public works department a proposed recordable plat showing the as-built streets and related infrastructure and the right-of-way to be conveyed.

The public works director, planning director, and town attorney are to review the proposed plat to determine its adequacy and provide recommendations as they deem appropriate to town council.

Sec. 13. – Formal Acceptance of Street and Related Infrastructure.

Once the street and all related infrastructure have been completed, the right-of-way plat has been prepared and approved by the public work's director, planning director, and town attorney, and the public work's director has prepared and submitted his/her report and recommendation, or at any other time requested by the developer/owner, the town manager will put the request for acceptance on the next available town council meeting so that town council can consider the request.

**TOWN OF WEAVERVILLE
POLICY CONCERNING STREET STANDARDS AND
ACCEPTANCE OF PRIVATE STREETS**

Town council will be asked to consider acceptance of the street and related infrastructure into the Town's public street system.

Sec. 14. – Post Acceptance Recordation.

If accepted and approved by town council, developer/owner must, at its expense, record the approved plat and convey the right-of-way by deed to the town in a form approved by the town attorney.

Sec. 15. – Limitation of Town Representative Responsibility.

Participation of town representatives in any on-site review or observation is for town purposes only and should not be relied upon by the developer/owner for engineering inspection and certification purposes.

Sec. 16. – Appeal of Administrative Decisions

Any administrative decision concerning the public street system is appealable to town council. Such an appeal must be submitted in writing to the town clerk within 30 days of the administrative decision and the writing must include the reasons for or basis of the appeal.

Sec. 17. – Subsequent Enactment and Codification of this Policy

Town staff is directed to draft and present to town council such amendments to Town Code as are necessary to enact as law and codify this policy with an effective date of May 1, 2020.

ADOPTED this the 27th day of January, 2020, by a unanimous vote of Town Council.

TOWN OF WEAVERVILLE



Allan P. Root, Mayor

Town of Weaverville
Town Council Agenda Item

Date of Meeting: Monday, February 24, 2020

Subject: Police Department Report for the 4th Quarter of 2019

Presenter: Chief of Police Ron Davis

Attachments: Police Department Reports – Q4 2019

Description:
Attached you will find a report for police activities, response times, crime reports and graphs.

Action Requested: None

WPD

Quarterly Report November 2019-January 2020

- **Activity**- There were 3,104 calls for service/activities last quarter (minus business & residential checks) vs. 2,794 when compared to the same quarter last year, reflecting a 11.0% increase.
- **Arrests**- There were 60 arrests last quarter vs. 68 arrests when compared to the same quarter last year, reflecting a 11.7% decrease*.
- **Accidents**- There were 60 vehicle collisions with 6 injuries vs. 55 collisions with 7 injuries when compared to the same period last year, reflecting a 9.0% increase.

Response Times November-January 2020

- *High priority*- average **2.66** Nov-Jan 2020 vs. **4.71** Nov 2018-Jan 2019.
- *Average priority*-average **4.55** Nov-Jan 2020 vs. **6.50** Nov 2018-Jan 2019.
- *Low priority*- average **3.06** Nov-Jan 2020 vs. **5.63** Nov 2018-Jan 2019.

- *High Priority* Calls- Response to the is **urgent** (i.e. in progress, weapon calls etc.)
- *Average Priority* Calls- Response to the scene is necessary but **not urgent**.
- *Low priority* Calls- Action on this type of call is sometimes handled on the phone (i.e. someone just needs to speak to an officer) thus the there is a shorter response time.

Incidents (page 1)

Southern Software Analytics - Incidents: 11/01/2019 - 01/31/2020

Offense	Previous Year/Same Range	Current Date Range	Difference	Percentage Difference
09A - Murder and Non-negligent Manslaughter	0	0	0	0.00%
09B - Negligent Manslaughter	0	0	0	0.00%
09C - Justifiable Homicide	0	0	0	0.00%
100 - Kidnapping/Abduction	1	0	-1	-100.00%
11A - Rape	1	0	-1	-100.00%
11B - Sodomy	0	0	0	0.00%
11C - Sexual Assault with an Object	0	1	1	100.00%
11D - Fondling	0	0	0	0.00%
120 - Robbery	0	0	0	0.00%
13A - Aggravated Assault	0	2	2	200.00%
13B - Simple Assault	4	1	-3	-75.00%
13C - Intimidation	0	0	0	0.00%
200 - Arson	0	0	0	0.00%
210 - Extortion/Blackmail	0	0	0	0.00%
220 - Burglary/Breaking & Entering	0	0	0	0.00%
23A - Pocket-Picking	0	0	0	0.00%
23B - Purse-Snatching	0	0	0	0.00%
23C - Shoplifting	11	8	-3	-27.27%
23D - Theft From Building	4	1	-3	-75.00%
23E - Theft From Coin-Operated Machine or Device	0	0	0	0.00%
23F - Theft From Motor Vehicle	1	8	7	700.00%
23G - Theft of Motor Vehicle Parts or Accessories	0	0	0	0.00%
23H - All Other Larceny	25	27	2	8.00%
240 - Motor Vehicle Theft	1	3	2	200.00%
250 - Counterfeiting/Forgery	4	9	5	125.00%
26A - False Pretenses/Swindle/Confidence Game	6	5	-1	-16.67%
26B - Credit Card/Automatic Teller Machine Fraud	3	3	0	0.00%
26C - Impersonation	2	0	-2	-100.00%
26D - Welfare Fraud	0	0	0	0.00%

Incidents (page 2)

Offense	Previous Year/Same Range	Current Date Range	Difference	Percentage Difference
26E - Wire Fraud	0	0	0	0.00%
26F - Identity Theft	5	0	-5	-100.00%
26R - Hacking/Computer Invasion	0	0	0	0.00%
270 - Embezzlement	1	0	-1	-100.00%
280 - Stolen Property Offenses	0	1	1	100.00%
290 - Destruction/Damage/Vandalism of Property	2	6	4	200.00%
35A - Drug/Narcotic Violations	42	50	8	19.05%
35B - Drug Equipment Violations	22	19	-3	-13.64%
36A - Incest	0	0	0	0.00%
36B - Statutory Rape	0	0	0	0.00%
37D - Pornography/Obscene Material	0	0	0	0.00%
39A - Betting/Wagering	0	0	0	0.00%
39B - Operating/Promoting/Assisting Gambling	0	0	0	0.00%
39C - Gambling Equipment Violations	0	0	0	0.00%
39D - Sports Tampering	0	0	0	0.00%
40A - Prostitution	0	0	0	0.00%
40B - Assisting or Promoting Prostitution	0	0	0	0.00%
40C - Purchasing Prostitution	0	0	0	0.00%
510 - Bribery	0	0	0	0.00%
520 - Weapon Law Violations	5	4	-1	-20.00%
64A - Human Trafficking - Commercial Sex Acts	0	0	0	0.00%
64B - Human Trafficking - Involuntary Servitude	0	0	0	0.00%
720 - Animal Cruelty	0	0	0	0.00%
Total:	(Total: 140)	(Total: 148)	(Difference: 8)	(Difference: 5.41%)

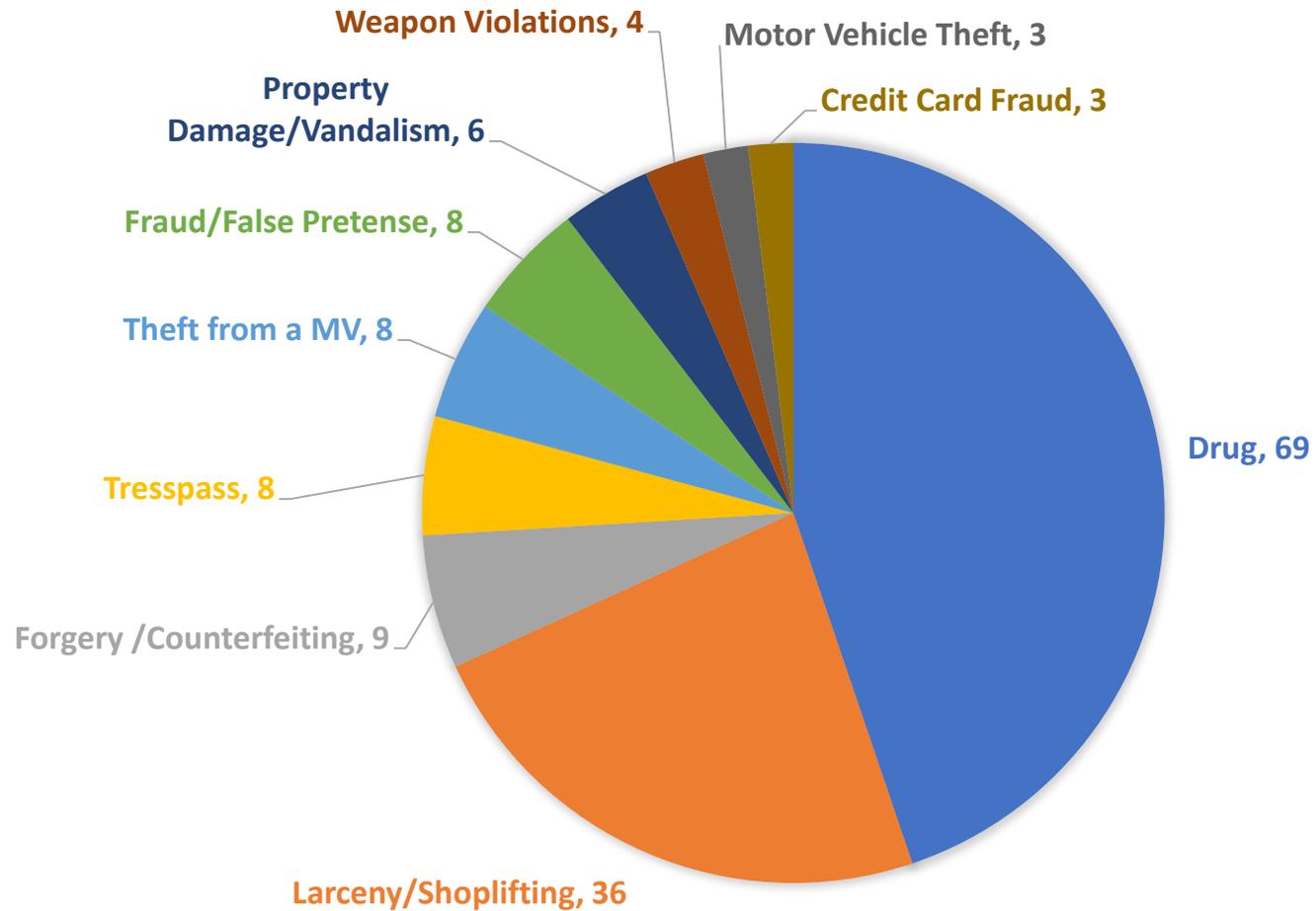
Southern Software Analytics - Incidents: 11/01/2019 - 01/31/2020

Offense	Previous Year/Same Range	Current Date Range	Difference	Percentage Difference
90A - Bad Checks	0	0	0	0.00%
90B - Curfew/Loitering/Vagrancy Violations	0	0	0	0.00%
90C - Disorderly Conduct	3	1	-2	-66.67%
90D - Driving Under the Influence	2	3	1	50.00%
90E - Drunkenness	0	0	0	0.00%
90F - Family Offenses, Nonviolent	0	1	1	100.00%
90G - Liquor Law Violations	2	0	-2	-100.00%
90H - Peeping Tom	0	0	0	0.00%
90J - Trespass of Real Property	8	8	0	0.00%
90Z - All Other Offenses	96	91	-5	-5.21%
Total:	(Total: 111)	(Total: 104)	(Difference: -7)	(Difference: -6.73%)

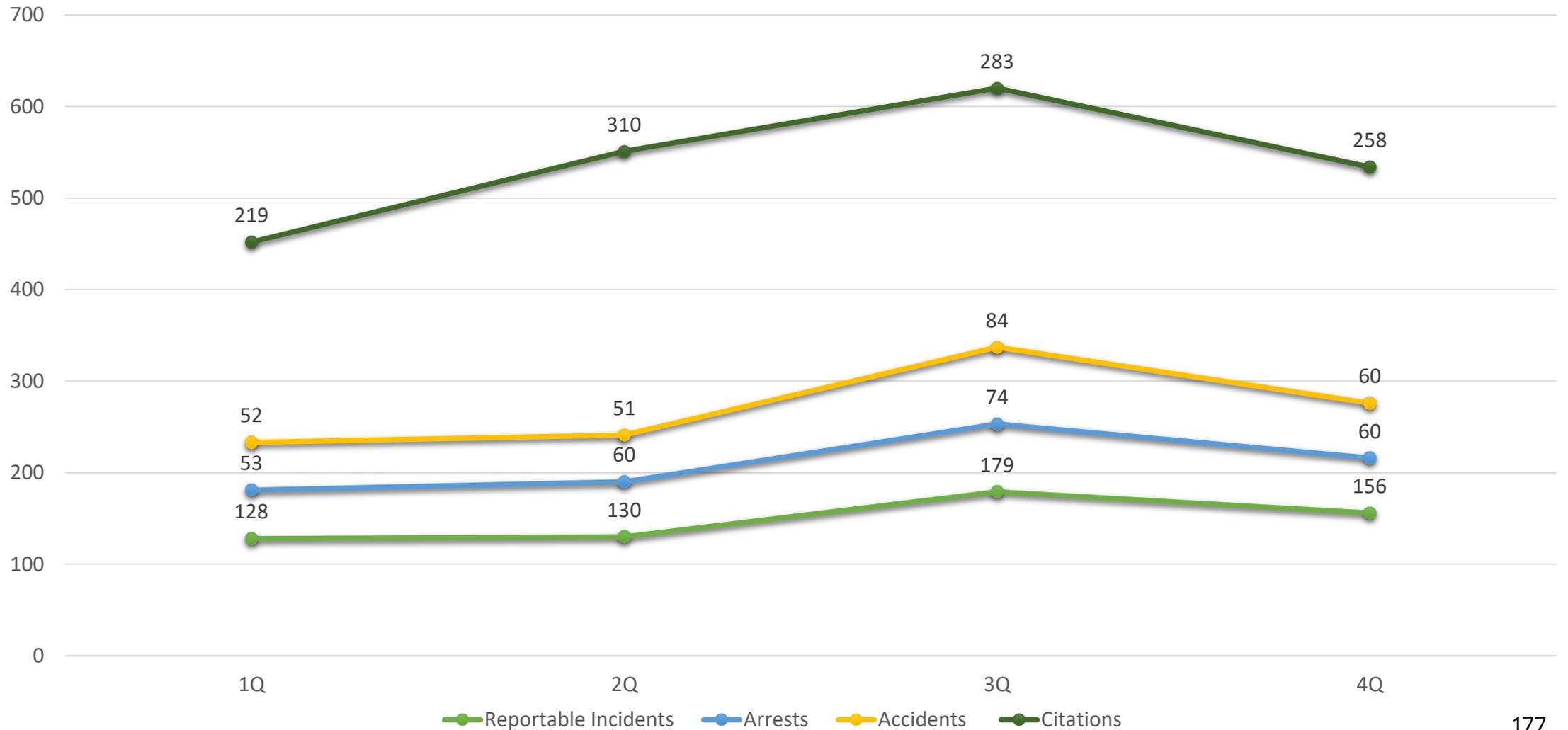
Incident Summary

- **Type “A” crimes-** There were 148 type “A” crimes such as larceny, shoplifting and theft from a from a motor vehicle etc., in this reporting period. There were 140 in same period last year. Which is a 5.4% increase.
- **Type “B” crimes-** There were 104 type “B” crimes such as disorderly conduct, liquor offenses and disorderly conduct etc., in this reporting period. There were 111 in the same period last year. Which is a 6.7% decrease.
- $148 + 104 = 252$ this period.
- $140 + 111 = 251$ same period last year.

Top 10 Reported Incidents



Quarterly Trends



Noteworthy Activities

- ***Hosted the first Domestic Violence Fatality Review Committee. Which included a judge, the District Attorney, nurses, numerous law enforcement agencies as well as local DV organizations to reduce domestic violence fatality rates.***
- ***Increased officer training:***
- Sent an officer to the states first multi-week ABC training academy for local law enforcement.
- Required all officers to be radar and Intoxilyer certified. In order to better address speeding and potential DWI issues.
- Involved officers with Crisis Intervention Team training to better assist those who might be in a drug or mental crisis.
- Sent officers including our School Resource Officer, to a review for the Parkland High School mass shooting incident. We also had our firearms instructors coordinate active shooter exercises in conjunction with other law enforcement agencies.
- ***Placed hybrids in service which is saving around 60 gallons of fuel per month per month and drastically reducing emissions.***
- ***Removed 3 old, inefficient vehicles from our fleet which are now up for auction on GovDeals:***
- 1995 Chevrolet Diesel Truck, 2004 Chevrolet Tahoe and a 2005 Ford Explorer
- ***Working with DEA/Homeland Security on drug seizures and forfeitures.***



TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: February 24, 2020
Subject: Quarterly Report-Fire Department
Presenter: Fire Chief
Attachments: Quarterly Report

Description:

Attached please find the quarterly report for the department

Council Action Requested:

No action needed.

Weaverville Fire Department Quarterly Report

November 1, 2019 – January 31, 2020

Total Calls For The Quarter -		469
Call Breakdown by Category –		
Fire		12
Overpressure, Rupture, Explosion, Overheat		0
Emergency Medical		267
Hazardous Condition		11
Service Calls		74
Good Intent Calls		73
False Alarms		27
Severe Weather		5
Average response Time for all Calls- 6:28		
<p>Responded to 74.58% of all calls within the 8 minute industry standard. <i>The calls that make up the remaining percentage were mutual aid to neighboring departments or calls where we would be requested to stage away until law enforcement determined the scene was safe to enter. This number will also be impacted by calls for routine assistance which are calls identified within the Service Calls and Good Intent Calls categories.</i></p>		
Number of Overlapping Calls - 102		Percent of Overlapping Calls - 21.79%
Number of Calls Within Town Limits - 225		Number of Calls In NB District - 244
Automatic Aid Given – 31		Automatic Aid Received – 6
Total Fire Loss - \$5,000		Pre-incident Value - \$198,500
Percentage of Fire Loss – 2.5%		



WEAVERVILLE FIRE DEPARTMENT

**3 MONTICELLO RD.
WEAVERVILLE, NC 28787**

Celebrating 100 years of service to our community

Fire Marshals Office Stats. November 2019, December 2019 and January 2020

SafeKids. Child Car Seat Installation.

November = 4 installations.

December = 4 installations

January = 3 installations.

Fire Prevention and Education Classes.

November 10th. - Transportation Day. Reynolds Mountain Christian Academy. (65 kids)

November 21st. – Serving Lunch along with Police Dept. Weaverville Elementary. (340 kids)

December 3rd. – Safety Committee Meeting. Town Hall.

December 7th. – Christmas Parade.

December 13th. – Serving Lunch to kids. Weaverville Elementary. (340 kids)

Commercial Business Inspections.

November = 31 inspections.

December = 36 inspections.

January = 16 inspections.

Kile R. Davis

Fire Marshal

Weaverville Fire Department

kdavis@weavervillefd.org